



Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
FAX (972) 450-7043

AGENDA
REGULAR MEETING OF THE CITY COUNCIL
OCTOBER 11, 2005
7:30 P.M.
COUNCIL CHAMBERS
5300 BELT LINE ROAD

REGULAR SESSION

Item #R1 - Consideration of Old Business.

Item #R2 - Consent Agenda.

CONSENT AGENDA

#2a - Approval of the Minutes for the September 27, 2005 Council Meetings.

Item #R3 - Consideration and approval of a nomination for a member to the Board of Directors of the Dallas Central Appraisal District.

Attachments:

1. Council Agenda Item Overview
2. Memorandum from Kenneth Nolan

Administrative Recommendation:

Administration recommends approval.

Item #R4 - **PUBLIC HEARING** regarding, and consideration of approval of, an Ordinance approving a Special Use Permit for a restaurant located at 5100 Belt Line Road, Suite 704, on application from Pacuigo Ice Cream, Mr. Dok Cha Kim, represented by Mr. Soh Koo Lee of Lee's Construction.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

Administrative Recommendation:

Administration recommends approval subject to no conditions.

Voting Aye: Bernstein, Chafin, Daseke, Doepfner, Jandura,
Meier, Wood.

Voting Nay: None

Absent: None

Item #R5 - **PUBLIC HEARING** regarding, and consideration of approval of, an Ordinance approving an amendment to a Special Use Permit for a restaurant, and an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 14248 Marsh Lane, on application from Burger House, represented by Mr. Angelo Chantilis, Sr.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

Administrative Recommendation:

Administration recommends approval with the following conditions:

- The applicant shall provide irrigated landscaping along the east side of the property that complies with the plant quantity requirements in the landscape regulations.
- The applicant shall substitute crape myrtles for the tree-form wax leaf ligustrum shown just to the east of the building by the proposed drive-thru.
- The applicant shall substitute a more suitable shrub for the Tam Juniper shown in front of the building.
- The applicant shall remove the abandoned sidewalk area and low concrete retaining wall in front of the building and convert that area to landscaping.
- The applicant shall substitute a perennial shrub for the fountain grass shown on the plan.
- The applicant shall top-dress and level all turf areas up to the grade of surrounding concrete areas.
- The applicant shall submit a plan that shows existing and new irrigation, which needs to include a plan to connect a freeze and rain sensor to an automatic irrigation controller.

Voting Aye: Bernstein, Chafin, Daseke, Doepfner, Jandura, Meier, Wood.

Voting Nay: None

Absent: None

Item #R6 - **PUBLIC HEARING** regarding, and consideration of approval of, an Ordinance approving a Special Use Permit for a Christmas Tree Lot in an Industrial-1 district, located at 14223 Dallas

Parkway, on application from Patton's Corner, represented by Mr. Jeff Patton.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

Administrative Recommendation:

Administration recommends approval subject to no conditions.

Voting Aye: Bernstein, Chafin, Daseke, Doepfner, Jandura,
Meier, Wood.

Voting Nay: None

Absent: None

Item #R7 - Consideration and approval of a Resolution authorizing the City Manager to enter into an agreement with Sasaki, Inc., for a reimbursement to the Town, in an amount not to exceed \$91,537.00, for modifications made by Dee Brown, Inc., to the interactive fountain basin at Addison Circle Park.

Attachments:

1. Council Agenda Item Overview
2. Memorandum from Jim Duffy
3. Letter from Alan Ward
4. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R8 - Consideration and approval of a Resolution authorizing the City Manager to enter into an agreement with Dee Brown, Inc., in an amount not to exceed \$91,537.00, for modifications to the interactive fountain basin at Addison Circle Park.

Attachments:

1. Council Agenda Item Overview
2. Memorandum by Jim Duffy
3. Proposal
4. Plans

Administrative Recommendation:

Administration recommends approval.

Item #R9 -

Consideration and approval of an Ordinance of the Town of Addison amending Chapter 82 of the Code of Ordinances by amending sewage and water rates for all customer classifications; providing a savings clause; providing a severability clause; providing an effective date.

Attachments:

1. Council Agenda Item Overview
2. Ordinance

Administration Recommendation:

Administration recommends approval.

Item #R10 -

Consideration and approval of an Ordinance amending Solid Waste, Chapter 66, Ordinance II, Section 53 of the Code of Ordinances regarding the requirement for a solid waste collection permit.

Attachments:

1. Council Agenda Item Overview
2. Solid Waste Collection Permit Research
3. Ordinance

Administration Recommendation:

Administration recommends approval.

Adjourn Meeting

Posted 5:00 p.m.
October 6, 2005
Carmen Moran
City Secretary

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS
WITH DISABILITIES. PLEASE CALL (972) 450-2819 AT LEAST
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

September 27, 2005
6:00 p.m. – Work Session - Town Hall
5300 Belt Line Road

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Mallory, Mellow,
Niemann

Absent: None

Item #WS1 – Discussion of revising the Town's policy concerning health insurance for retirees.

No action taken

Item #WS2 – Discussion of amending the Town's current Workers' Compensation policy.

No action taken.

Item #WS3 – Discussion regarding Metrocrest Social Services.

No action taken.

There being no further business before the Council, the meeting was adjourned.

Mayor

Attest:

City Secretary

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

September 27, 2005
7:30 p.m. - Council Chambers
5300 Belt Line Road

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Mallory, Mellow,
Niemann

Absent: None

Item #R1 - Consideration of Old Business.

The following employees were introduced to the Council: James Brown (Public Works), Will Moore (Fire).

Mayor Chow presents a proclamation to City Manager Whitehead commending the Town of Addison employees for their dedication and efforts while sheltering the Hurricane Rita evacuees.

Item #R2 - Consent Agenda.

#2a – Approval of the Minutes for the September 6, 2005 and September 13, 2005 Council Meetings.

Councilmember Niemann moved to duly approve the minutes for the September 6, 2005 and September 13, 2005 Council Meetings subject to one correction. Councilmember Mallory seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R3 – Consideration and approval of an Ordinance granting meritorious exception to Sec. 62-183, Number of Signs, Sec. 62-185, Specifications, and Sec. 62-286, Interchangeable Copy for Two Rows Restaurant located at 17225 Dallas Parkway.

Councilmember Hirsch recuses himself and leaves the council chambers.

Councilmember Niemann moved to deny request of a meritorious exception to Sec. 62-183, Number of Signs, Sec. 62-185, Specifications, and Sec. 62-286, Interchangeable Copy for Two Rows Restaurant located at 17225 Dallas Parkway. Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Mallory, Mellow, Niemann
Voting Nay: Kraft
Absent: None
Abstain: Hirsch

Councilmember Hirsch returns to the council chambers

Item #R4 – Consideration and approval of an Ordinance granting meritorious exception to Sec. 62-246, Temporary Banner Signs, prohibited, exceptions, of the sign ordinance for Prestonwood Place United Partnership located at 5290 Belt Line Road.

Councilmember Braun moved to deny request of a meritorious exception to Sec. 62-246, Temporary Banner Signs, prohibited, exceptions, of the sign ordinance for Prestonwood Place United Partnership located at 5290 Belt Line Road. Councilmember Hirsch seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R5 – Consideration and approval of a Resolution authorizing the City Manager to enter into an agreement with ConsultEcon, Inc. to assist the Town in conducting a feasibility study of the proposed Cavanaugh Flight Museum expansion.

Councilmember Niemann moves to duly approve Resolution No. R05-077 authorizing the City Manager to enter into an agreement with ConsultEcon, Inc. to assist the Town in conducting a feasibility study of the proposed Cavanaugh Flight Museum expansion subject to the approval of the city attorney. Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R6 – Consideration and approval of Change Order No. 4 in the amount of \$99,560.54 for the construction of Arapaho Road, Phase III, from Surveyor Blvd. to Addison Road.

Councilmember Kraft moves to duly approve Change Order No. 4 in the amount of \$99,560.54 for the construction of Arapaho Road, Phase III, from Surveyor Blvd. to Addison Road. Councilmember Mallory seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R7 – Consideration and approval to authorize the City Manager to reimburse the Dallas, Garland & Northeastern Railroad, Inc., for installation of highway grade crossing signals on the Arapaho Road, Phase III project.

Councilmember Niemann moved to duly approve and authorize the City Manager to reimburse the Dallas, Garland & Northeastern Railroad, Inc., for installation of highway grade crossing signals on the Arapaho Road, Phase III project. Councilmember Hirsch seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R8 – **PUBLIC HEARING** regarding the proposed Town of Addison annual budget for the fiscal year beginning October 1, 2005 and ending September 30, 2006.

Mayor Chow opened the meeting as a public hearing.

Councilmember Hirsch requested \$15,000 to Metrocrest Social Services.

Mayor Chow closed the meeting as a public hearing.

No action taken.

Item #9 – Consideration and approval of an Ordinance adopting the Town of Addison annual budget for the fiscal year beginning October 1, 2005 and ending September 30, 2006.

Councilmember Niemann moved to duly pass Ordinance No. 005-042 adopting the Town of Addison annual budget of \$59,066,610, for the fiscal year beginning October 1, 2005 and ending September 30, 2006. Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #10 – Consideration and approval of an Ordinance fixing and adopting the tax rate on all taxable property, for the year 2005; and declaring an emergency.

Councilmember Mallory moved to duly pass Ordinance No. 005-043 fixing and adopting the tax rate on all taxable property, for the year 2005; and declaring an emergency. Councilmember Hirsch seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #11 – Consideration and approval of an Ordinance amending the Code of Ordinances by amending Chapter 67, Article IV, Section 67.20, Restaurant/Retail Promotional Fee.

Councilmember Mallory moved to duly pass Ordinance No. 005-044 amending the Code of Ordinances by amending Chapter 67, Article IV, Section 67.20, Restaurant/Retail Promotional Fee. Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #12 – Consideration and approval of an Ordinance amending the Code of Ordinances by amending Chapter 46, Article II, Section 46.32, Food Service License Fee.

Councilmember Mallory moved to duly pass Ordinance No. 005-045 amending the Code of Ordinances by amending Chapter 46, Article II, Section 46.32, Food Service License Fee. Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #13 – Consideration and approval of an Ordinance amending the Code of Ordinances by amending Appendix B, Section IX.A, Plat Fees.

Councilmember Niemann moved to duly pass Ordinance No. 005-046 amending the Code of Ordinances by amending Appendix B, Section IX.A, Plat Fees. Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #14 – Consideration and approval of an Ordinance amending the Code of Ordinances by amending Chapter 18, Article XXVI, Section 18.2, Zoning Verification Letter Fee, Zoning Fee, Special Use Permit Fee and Variance Fee.

Councilmember Mallory moved to duly pass Ordinance No. 005-047 amending the Code of Ordinances by amending Chapter 18, Article XXVI, Section 18.2, Zoning Verification Letter Fee, Zoning Fee, Special Use Permit Fee and Variance Fee subject to correction of two typographical errors. Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #15 – Consideration and approval of an Ordinance amending the Code of Ordinances by amending Chapter 66 (Solid Waste) Article II (Collection and Disposal), Section 66-52 by removing the reference to the \$0.10 landfill surcharge, and by adding an increase from \$9.55 to \$9.89 the monthly fee for single family residential garbage and recycling collection.

Councilmember Mallory moved to duly pass Ordinance No. 005-048 amending the Code of Ordinances by amending Chapter 66 (Solid Waste) Article II (Collection and Disposal), Section 66-52 by removing the reference to the \$0.10 landfill surcharge, and by adding an increase from \$9.55 to \$9.89 the monthly fee for single family residential garbage and recycling collection. Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #16 – Consideration and approval of an Ordinance amending the Code of Ordinances by amending Chapter 66 (Solid Waste) Article II (Collection and Disposal), Section 53 regarding the requirements for a solid waste collection permit.

Item was withdrawn per staff's request.

Item #17 – Consideration and approval of an Ordinance approving
1) increases in emergency medical service fees by \$100 for Town residents and \$150 for non-residents, and 2) assesses an additional \$5 fee per loaded transport mile related to ambulance transportation.

Councilmember Kraft moves to duly pass Ordinance No. 005-049 approving
1) increases in emergency medical service fees by \$100 for Town residents and \$150 for non-residents, and 2) assesses an additional \$5 fee per loaded

transport mile related to ambulance transportation. Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #18 – Consideration and approval of an Ordinance revising the Town's policy concerning health insurance for retirees.

Councilmember Mallory moved to duly pass Ordinance No. 005-050 revising the Town's policy concerning health insurance for retirees. Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #19 – Consideration and approval of an Ordinance amending the Town's current Workers' Compensation policy.

Councilmember Braun moved to duly pass Ordinance No. 005-051 amending the Town's current Workers' Compensation policy. Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R10 is reopened.

Item #10 – Consideration and approval of an Ordinance fixing and adopting the tax rate on all taxable property, for the year 2005; and declaring an emergency.

Councilmember Mallory moved to adopt an Ordinance fixing and adopting the tax rate on all taxable property for the year 2005, by stating "I move that property taxes be increased by the adoption of a tax rate of \$0.4760," such amount being for each \$100 of property value. Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

There being no further business before the Council, the meeting was adjourned.

Attest:

Mayor

City Secretary

Council Agenda Item: #R3

SUMMARY:

The Dallas Central Appraisal District is in the process of conducting an election/appointment for their Board of Directors. As you may have heard, Bill Binford who represents the suburban cities on DCAD is not seeking a re-appointment; thereby creating a vacancy on the board.

FINANCIAL IMPACT:

Budgeted Amount: \$ N/A

Cost: \$ N/A

BACKGROUND:

By law, DCAD is required to conduct an election/appointment process for their five-member Board of Directors. The process is conducted on odd numbered years and a member is appointed for a two-year term beginning on the even numbered year. Because Mr. Binford, who represents all the suburban cities in Dallas, has chosen not to serve again on the Board, it provides for the suburban cities to nominate a new representative.

The five-member Board of Directors consist of one member from the City of Dallas, one member from Dallas County, one member from DISD, one member from the suburban cities in Dallas County, and one member from the suburban school districts in Dallas County. For Addison to nominate an individual, the Council must approve a resolution with a name and submit it to the Chief Appraiser by October 15. The Chief Appraiser will then prepare a resolution ballot with all of the names submitted and return it to the suburban cities for a vote. By December 15, the ballot must be returned to the Chief Appraiser with the suburban city's selection. The person receiving the most votes is selected as the suburban cities' representative for the next term.

The Board of Directors act as the governing body of the Appraisal District and the job duties of the Board are set forth in the Property Tax Code, Chapter 6 Local Administration. For example, the Board approves certain contracts, hiring/firing the Chief Appraiser, establishing policies related to the Appraisal District allowed under statute, but does not get involved with any property discussions. The Board meets once a month on the first Wednesday of the month.

RECOMMENDATION:

N/A



Dallas Central
Appraisal District

#R3-2
RECEIVED
SEP 22 2005
CITY MANAGER

Date: September 19, 2005

To: Ron Whitehead, City Manager, Town of Addison

From: W. Kenneth Nolan, Executive Director/Chief Appraiser

Re: Election/Appointment of Members to Board of Directors
Of the Dallas Central Appraisal District

The Property Tax Code, Section 6.03, requires that an election or appointment of members to the Board of Directors of an appraisal district be conducted in odd numbered years. The term of office for elected or appointed members is two years, beginning in even numbered years.

Pursuant to the provisions of the Property Tax Code in 1979, the agencies of Greater Dallas County elected to amend the manner in which representatives were chosen. By special provision of the Property Tax Code, it was decided that the following procedure would be adopted for the election or appointment of members.

Appointments

- A. The City of Dallas will be entitled to appoint one (1) member to the Board.
- B. The Dallas Independent School District will be entitled to appoint one (1) member to the Board.
- C. The Dallas County Commissioners Court may appoint one (1) member to the Board. The member appointed by the Commissioners Court may not be a resident of either the City of Dallas or the Dallas Independent School District.

Elections

- D. Each of the incorporated cities and towns, except the City of Dallas, shall have the right to nominate by official resolution one (1) candidate as the fourth member to the Board. The said cities and

towns shall, from among the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, a member to the Board of Directors.

- E. Each of the Independent School Districts, except the Dallas Independent School District, shall have the right to nominate by official resolution one (1) candidate as the fifth member to the Board. The said Independent School Districts shall, from among the nominations received, elect by a majority vote, with each Independent school District being entitled to one (1) vote, a member to the Board of Directors.

The votes required for appointment of the Board of Directors as prescribed by the Texas Property Tax Code, in Subsections d and e, hereof, shall be by a majority of those authorized to vote in Subsections d and e, respectively, and not by a majority of the quorum. In accordance with the procedures described in the Property Tax Code, the schedule for election/appointment is as follows:

- By October 15: Nominees for each entity described in Subsections d and e hereto shall be submitted to the Chief Appraiser.
- By October 30: The Chief Appraiser shall prepare a resolution ballot for those entities described in Subsections d and e hereto and submit the ballot accordingly.
- By December 15: Each agency entitled to vote will do so by official resolution ballot and return same to the Chief Appraiser as soon thereafter as practical.
- By January 1: Results of the election will be affirmed.

The County of Dallas, the City of Dallas and the Dallas Independent School District should advise the Chief Appraiser of their appointments no later than November 15, if possible. These appointments should also be by official resolution. The term of office for each member is two years beginning on January 1, 2006.

At the conclusion of the process, every agency will be advised of the final appointments or election results. For the convenience of the entities, a sample resolution is included for the purpose of nominations from the suburban cities and school districts. If you have any questions about this process, please contact me or Cheryl Jordan at 214/631-0520.

WKN/vgh

Enclosure (Sample Resolution)

cc: Elaine Difiglia, Tax Assessor/Collector

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF _____ TEXAS, NOMINATING

AS A CANDIDATE TO BE A MEMBER OF THE
BOARD OF DIRECTORS OF THE DALLAS CENTRAL APPRAISAL
DISTRICT**

WHEREAS, The Chief Appraiser of the Dallas Central Appraisal District has been charged with the responsibility of conducting the election process to determine the membership of the Board of Directors of the Dallas Central Appraisal District, according to the Property Tax Code of Texas; and

WHEREAS, each of the incorporated cities and towns, except for City of Dallas, shall have the right to nominate by an official resolution one (1) candidate as a member of the Board of Directors; and

WHEREAS, the said cities and towns shall, from among the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, a member of the Board of Directors.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF _____, TEXAS:**

THAT the Council of the City of _____, Texas does hereby nominate _____ as a candidate to be a member of the Board of Directors of the Dallas Central Appraisal District.

DULY PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

MAYOR

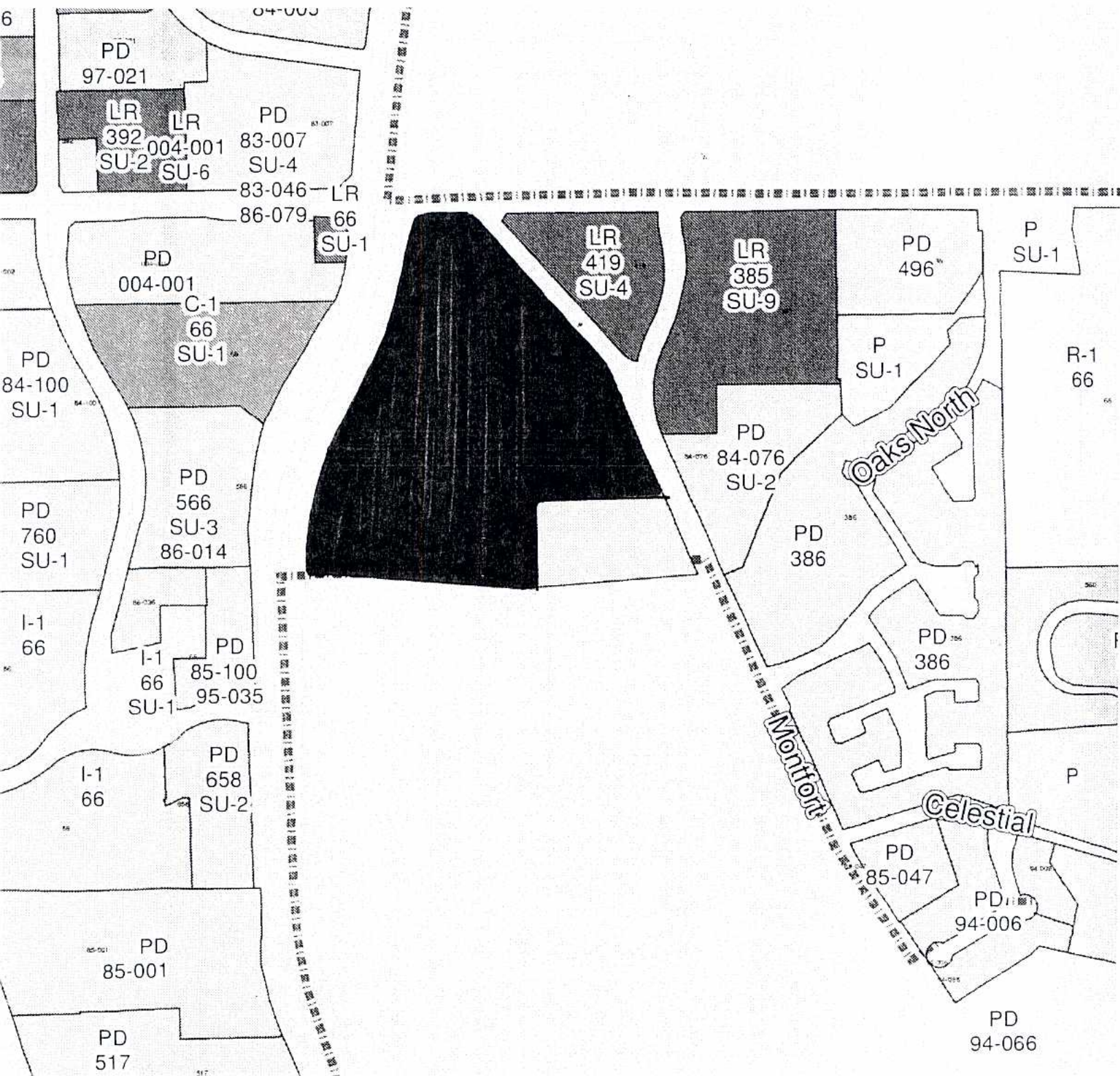
ATTEST:

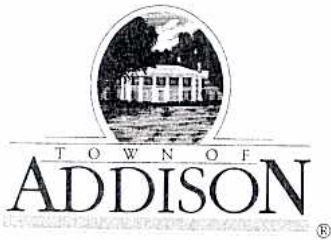
CITY SECRETARY

SEAL:

1506-SUP

Case 1506-SUP/Pacuigo Ice Cream. Requesting approval of a Special Use Permit for a restaurant, located at 5100 Belt Line Road, Suite 704, on application from Mr. Dok Cha Kim, represented by Mr. Soh Koo Lee or Lee's Construction.





50 YEARS OF FUN!

Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

September 15, 2005

STAFF REPORT

RE: Case 1605-SUP/Pacuigo Ice Cream

LOCATION: 5100 Belt Line Road, Suite 704

REQUEST: Approval of a Special Use Permit for a restaurant.

APPLICANT: Mr. Dok Cha Kim, represented
By Mr. Soh Koo Lee

DISCUSSION:

Background. The applicant in this request seeks to open a 1,252 square foot ice cream shop in a lease space in the Village on the Parkway shopping center. The applicant has to get a Special Use Permit for a restaurant because he plans to have consumption of ice cream on the premises.

Proposed Plan. The floor plan shows an ice cream shop with a counter for ordering ice cream. No furniture was indicated on the plan. The applicant has not indicated any patio or outside seating, however, there is sufficient parking in the center to add tables and chairs outside the restaurant if desired.

Landscaping. The landscaping for this center is already in place. The Parks Department notes that it meets the requirements of the ordinance and is generally well-maintained.

Parking. Restaurant uses within this center have a special parking ratio of one space per 250 square feet, regardless of use. There is sufficient parking for this restaurant use.

Food Service Code. The restaurant will be subject to all regulations contained in the Addison Food Service Ordinance.

Signage. No signs are shown on the space. The applicant should be aware that all signage for the restaurant must comply with the requirements of the Addison Sign Ordinance.

RECOMMENDATION:

Staff recommends approval of the Special Use Permit for a restaurant subject to no conditions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. MORAN". The signature is written in a cursive, slightly stylized font.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

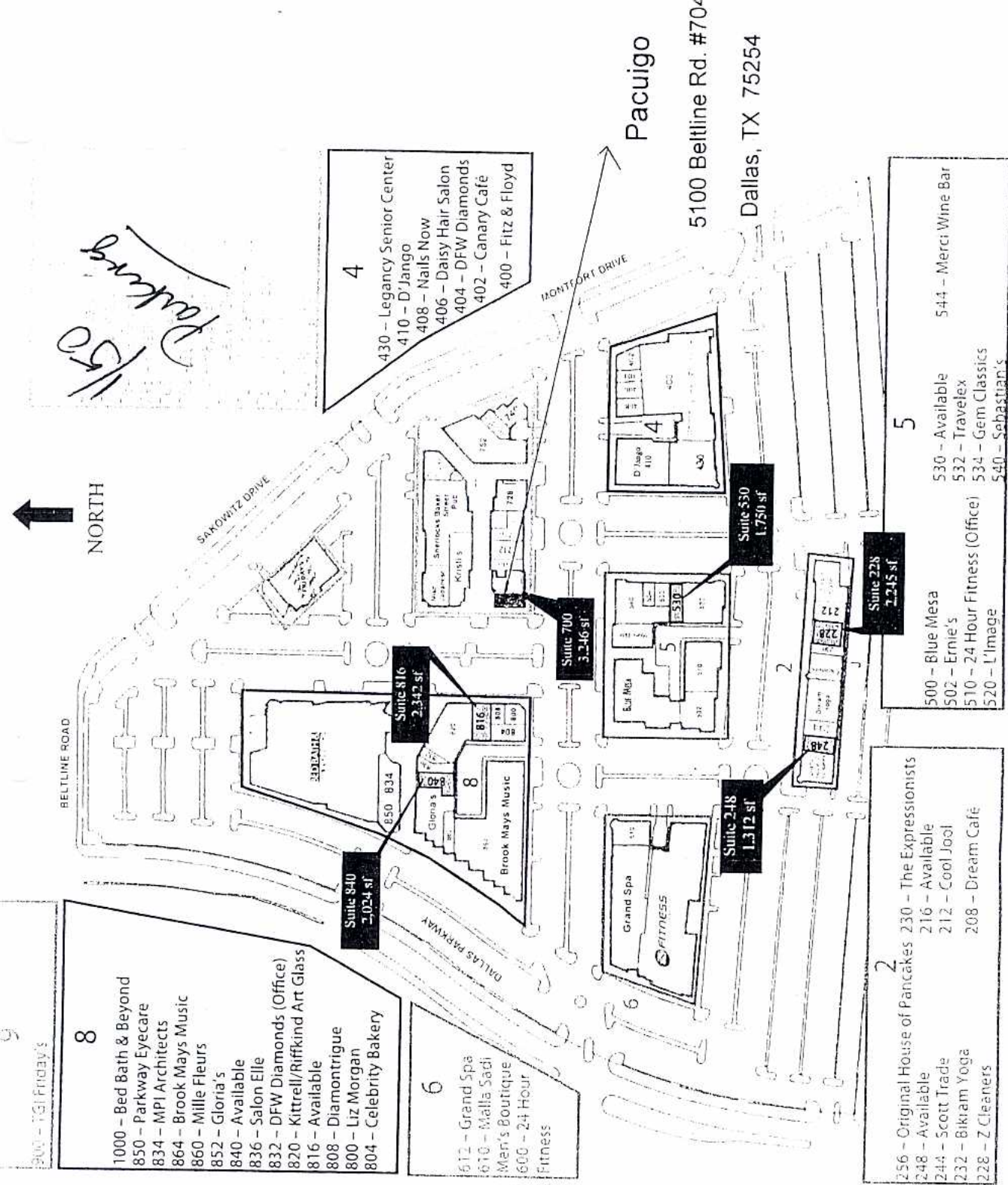
The Addison Planning and Zoning Commission, meeting in regular session on September 22, 2005, voted to recommend approval of your request subject to no conditions.

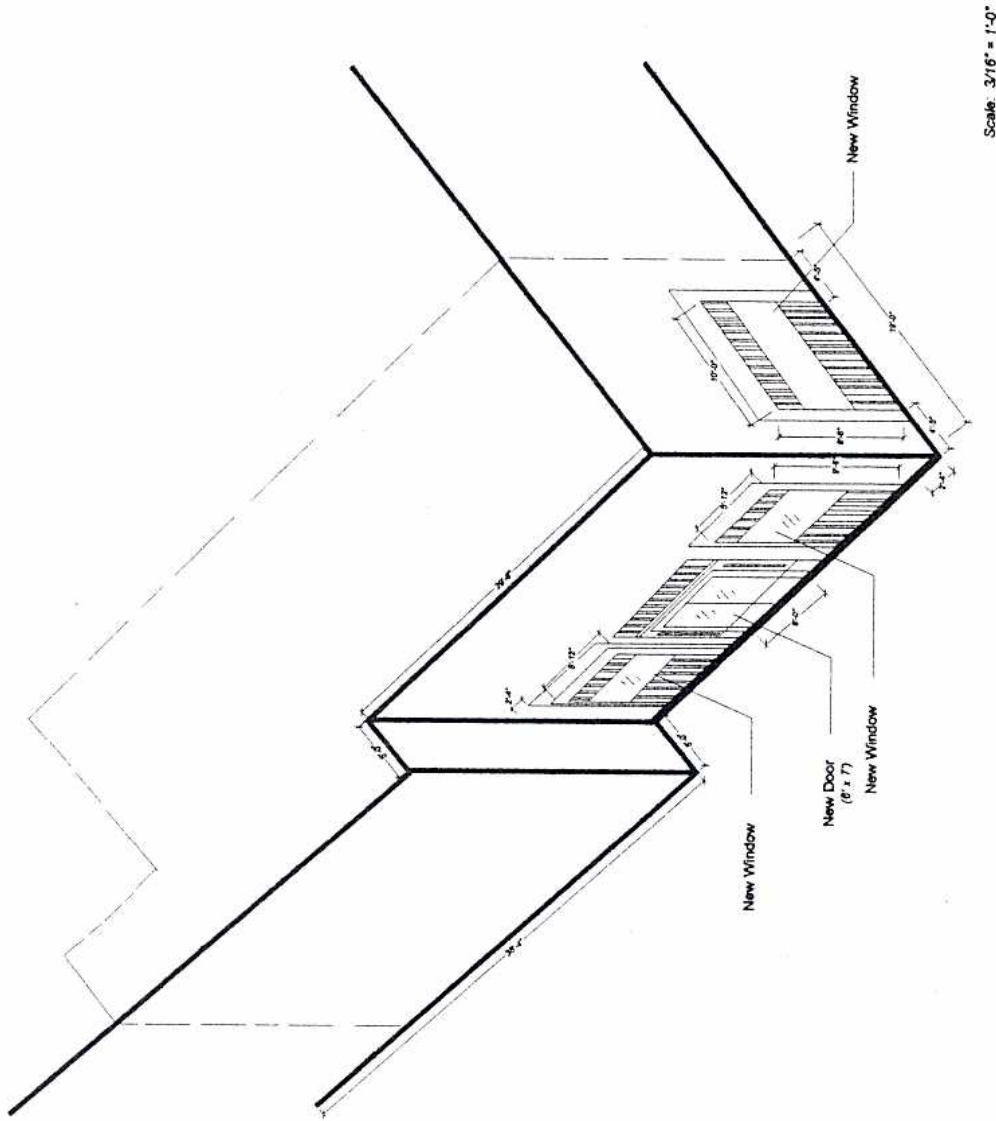
Voting Aye: Bernstein, Daseke, Jandura, Meier, Wood

Voting Nay: None

Absent: Chafin, Doepfner

#R4.3





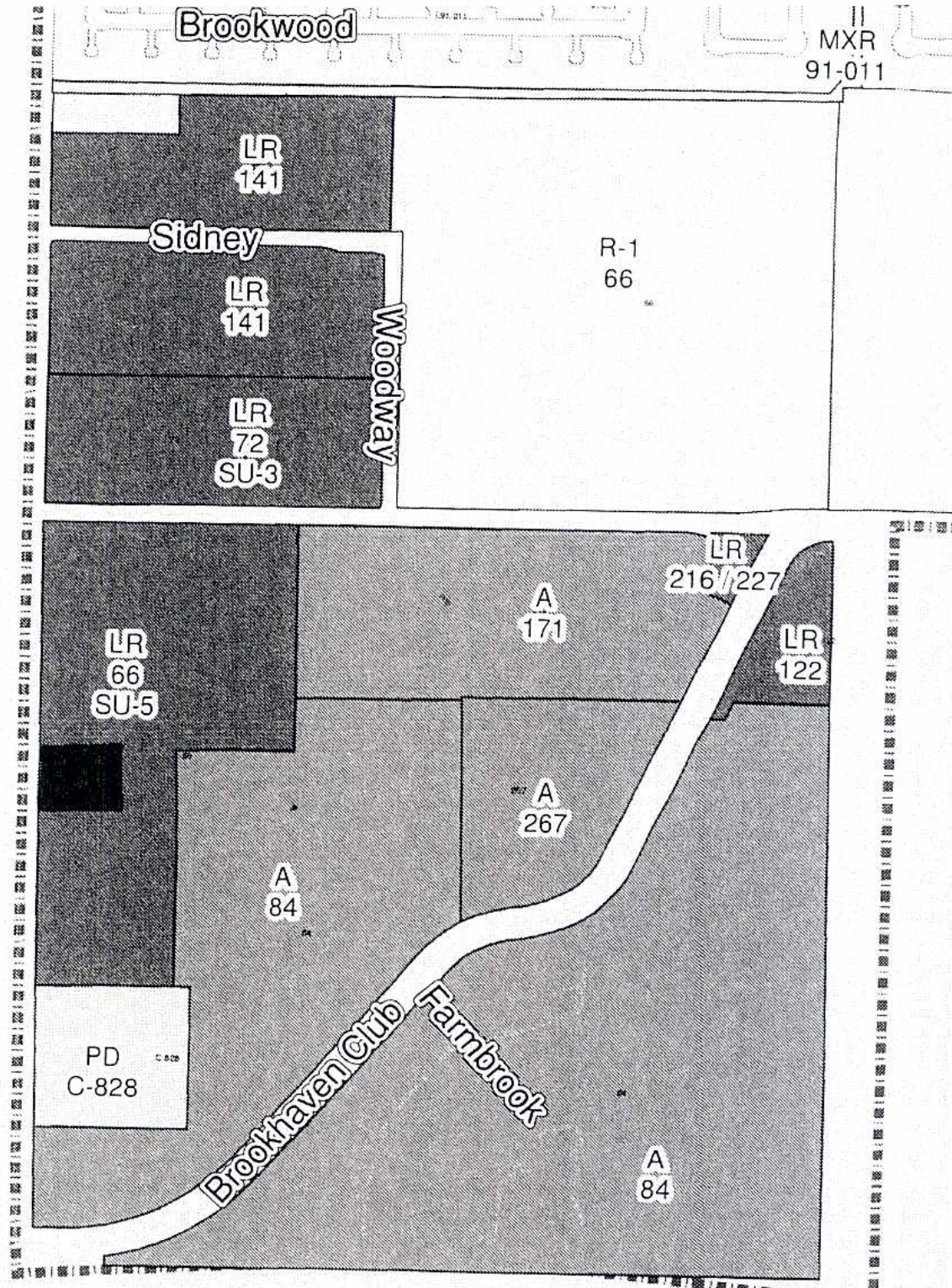
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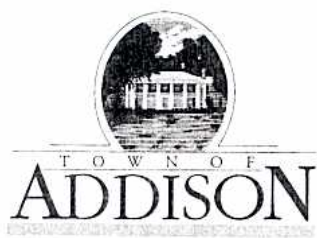
Pacuigo New Elevation
5100 Bellline Rd. #704
Dallas, TX 75254

Lee's Construction Co.
3711 Everton Dr.
Flower Mound, TX 75022
Bus. 214-837-5000
Fax. 972-874-9389

1507-SUP

Case 1507-SUP/Burger House. Requesting approval of an amendment to an existing Special Use Permit for a restaurant, and an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 14248 Marsh Lane, on application from Burger House.





Addison 50!

50 YEARS OF FUN!

Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road (972) 450-7000

FAX (972) 450-7043

September 15, 2005

STAFF REPORT

RE:

Case 1507-SUP/Burger House

LOCATION:

14248 Marsh Lane

REQUEST:

Approval of an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only

APPLICANT:

Burger House, represented by Mr. Angelo Chantilis, Sr.

DISCUSSION:

Background. This restaurant was operated as Marcello's Restaurant from 1980 to 2002. During that time, it did not sell alcohol. In 2002, the owner gained approval for a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, and later that year sold the restaurant to Mr. Lee Groves. His daughter ran the restaurant under the name Tina Marie's for a couple of years. At this point, Mr. Chantilis and his partner Mr. Steve Canellos are planning to take over the restaurant and convert it to a Burger House Restaurant. The applicants do not currently plan to serve alcoholic beverages, but would like to retain the SUP for alcohol that is currently in place, so that if they decide in the future to serve beer and wine, they will be able to do so without coming back through the process. They currently have three other Burger House locations in Dallas. One is at 6913 Hillcrest, one is at 6248 Mockingbird Lane, and one is at Southwestern Medical Center, 5323 Harry Hines Blvd.

Proposed Plan. The plans show a 2,268 square-foot restaurant. The applicant is proposing to add a 96-square-foot area for a drive-thru window to the northeast corner of the building. There will be some minor changes to the floor plan. This was formerly a full-service restaurant, but the applicant is proposing to change it to an "order-at-the-counter" restaurant with self-service for beverages

Façade. With the exception of the drive-thru window, the applicant is not proposing any changes to the exterior of the restaurant, but will clean it up and repaint it.

Landscaping. In April of 2004, the Commission considered a request from Tina Marie's to expand the restaurant to add a gazebo that would serve as a patio. In that request, the applicant did not offer any landscaping to replace the landscaping that would be taken out for the gazebo. That applicant did not provide a landscaping plan for the staff to review. The staff did not recommend approval of the SUP for the patio addition. The request was tabled by the Commission, and then withdrawn by Tina Marie's. Since that time, Tina Marie's has gone out of business, and the building has been vacant for a couple of months.

The current applicant has submitted a landscaping plan that demonstrates he will add 540 square feet of additional landscaping to the site. He will delete the parking spaces immediately east of the restaurant and replace that area with landscaping. He will lose four parking spaces to add the landscaping, but those parking spaces would not be usable anyway because they would be blocked by the traffic for the drive-thru window. He also had indicated he will renovate the landscaping on the rest of the site. As Slade Strickland notes in his memo, this is a pre-existing, or grandfathered site. It is not possible to provide 20% of the site in landscaping without removing needed parking. The applicant submitted a plan showing upgrades to the exiting landscaped areas, and staff believes those will be sufficient under the following conditions:

1. Provide irrigated landscaping along the east side of the property that complies with the plant quantity requirements in the landscape regulations.
2. Substitute crape myrtles for the tree-form wax leaf ligustrum shown just to the east of the building by the proposed drive-thru.
3. Substitute a more suitable shrub for the Tam Juniper shown in front of the building.
4. There is an unsightly abandoned sidewalk area and low concrete retaining wall in front of the building that needs to be removed and converted to landscaping. This will help to increase the amount of landscaped area.
5. Substitute the Dwarf Fountain Grass with a perennial shrub. Fountain grass is an annual plant that will be out of season when they plan to open.
6. All of the existing turf areas need to be top dressed and leveled up to the grade of surrounding concrete areas.
7. The irrigation appears to be in need of major repairs, and some of the proposed landscape areas do not have irrigation at all. Staff recommends the applicant submit a plan that shows existing and new irrigation, which needs to include a plan to connect a freeze and rain sensor to an automatic irrigation controller.

Parking. This site was developed when the parking ratio was one space per 100 square feet. It would still be grandfathered at that ratio, but any expansion or addition to the building causes it to lose grandfathered status. Therefore, when the applicant proposes to add the 96 square-foot, drive-thru window, he causes the building to be at a 1/70 square feet ratio. At that ratio, the building needs 32 parking spaces. It provides 28 spaces. The Commission and Council can vary the parking requirement under a Special Use Permit.

Drive-thru window. When considering a request for a drive-thru window, the staff requires that the site have access to two streets and at least 100 feet of stacking space from the customer order point for cars. This site has access to Marsh Lane off of the west side (front) of the site, and access to Spring Valley through the shopping center on the north side. Those two points of ingress/egress satisfy the requirements for access to two streets. It also has at least 100 feet of stacking space from the order point.

Signs. The applicant did not submit plans for any additional signs. The applicant should be aware that all signs must be permitted under the requirements of the Addison Sign ordinance, and cannot be approved through this process. The applicant should also be aware that the Town has a policy against the use of any terms or graphic depictions that denote alcoholic beverages in exterior signs.

RECOMMENDATION:

Staff believes that the conversion of this restaurant into a Burger House is a good use for this space. The applicants have a proven track record for operating a successful restaurant. The staff also believes that a Burger House with a drive-thru window is a good fit for the neighborhood. Staff also believes that adjacent shopping center provides parking that could be used for this restaurant.

With these thoughts in mind, staff recommends approval of the request for the amendment to an existing Special Use Permit for a restaurant, and approval of an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, subject to the following conditions:

- The applicant shall provide irrigated landscaping along the east side of the property that complies with the plant quantity requirements in the landscape regulations.
- The applicant shall substitute crape myrtles for the tree-form wax leaf ligustrum shown just to the east of the building by the proposed drive-thru.

- The applicant shall substitute a more suitable shrub for the Tam Juniper shown in front of the building.
- The applicant shall remove the abandoned sidewalk area and low concrete retaining wall in front of the building and convert that area to landscaping.
- The applicant shall substitute a perennial shrub for the fountain grass shown on the plan.
- The applicant shall top-dress and level all turf areas up to the grade of surrounding concrete areas.
- The applicant shall submit a plan that shows existing and new irrigation, which needs to include a plan to connect a freeze and rain sensor to an automatic irrigation controller.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'CMORAN' with a stylized flourish at the end.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on September 22, 2005, voted to recommend approval of the request on application from Burger House, subject to the following conditions:

- The applicant shall provide irrigated landscaping along the east side of the property that complies with the plant quantity requirements in the landscape regulations.
- The applicant shall substitute crape myrtles for the tree-form wax leaf ligustrum shown just to the east of the building by the proposed drive-thru.
- The applicant shall substitute a more suitable shrub for the Tam Juniper shown in front of the building.
- The applicant shall remove the abandoned sidewalk area and low concrete retaining wall in front of the building and convert that area to landscaping.
- The applicant shall substitute a perennial shrub for the fountain grass shown on the plan.
- The applicant shall top-dress and level all turf areas up to the grade of surrounding concrete areas.
- The applicant shall submit a plan that shows existing and new irrigation, which needs to include a plan to connect a freeze and rain sensor to an automatic irrigation controller

Voting Aye: Bernstein, Daseke, Jandura, Meier, Wood

Voting Nay: None

Absent: Chafin, Doepfner

Memorandum

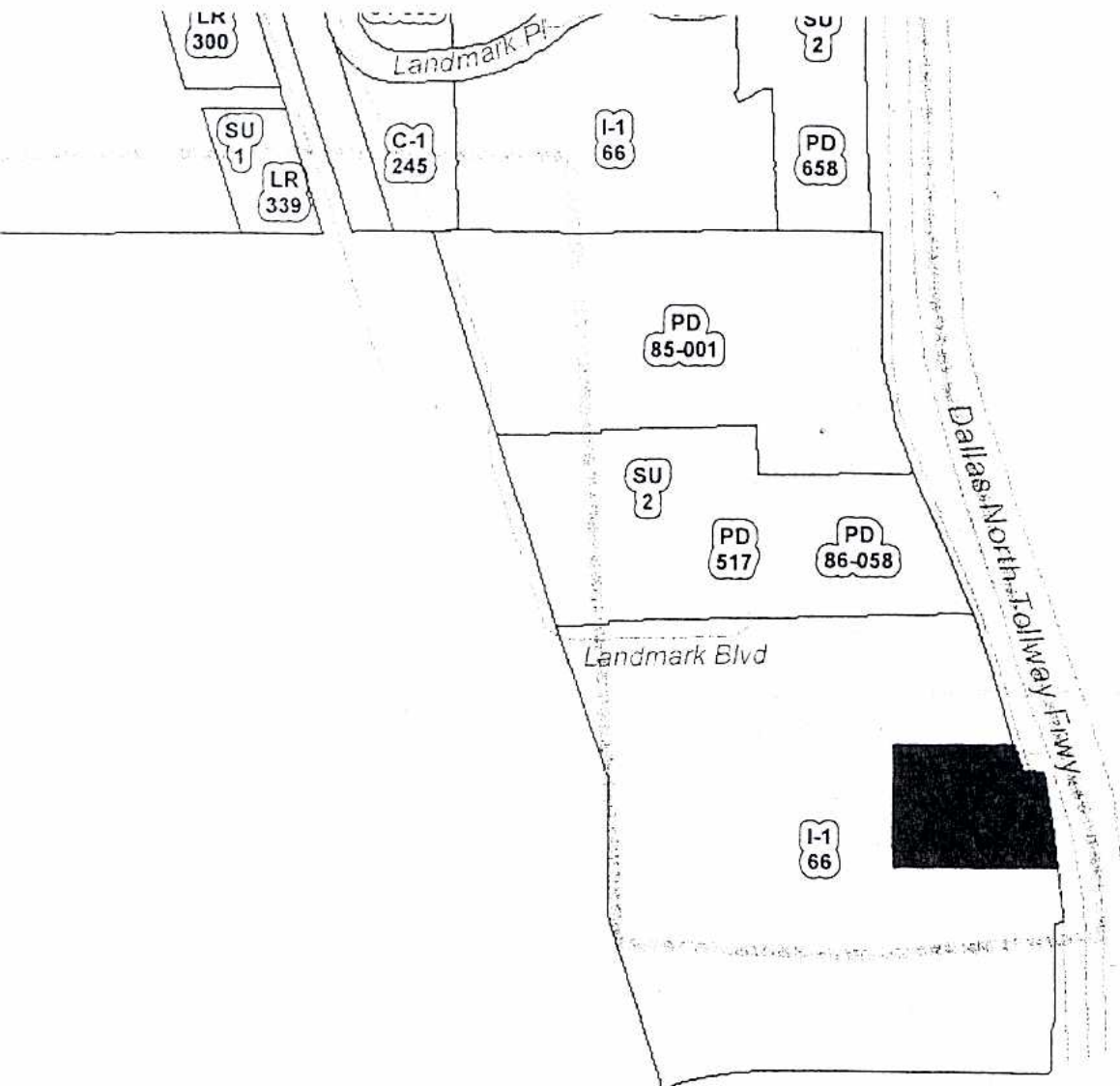
Date: August 17, 2005
To: Carmen Moran, Director of Development Services
From: Slade Strickland, Director of Parks and Recreation
Subject: Case 1507-SUP/Burger House

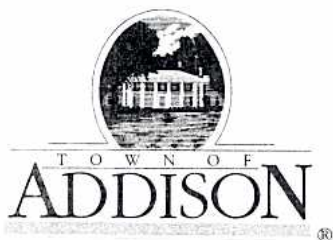
This is a pre-existing site where it is impossible to provide 20 percent site landscaping without removing needed parking spaces. With this in mind, the applicant submitted a plan showing upgrades to the existing landscaped areas. Staff recommends the following conditions based on the plan submitted:

1. Provide irrigated landscaping along the east side of the property that complies with the plant quantity requirements in the landscape regulations.
2. Substitute crape myrtles for the tree-form wax leaf ligustrum shown just to the east of the building by the proposed drive-thru.
3. Substitute a more suitable shrub for the Tam Juniper shown in front of the building.
4. There is an unsightly abandoned sidewalk area and low concrete retaining wall in front of the building that needs to be removed and converted to landscaping. This will help to increase the amount of landscaped area.
5. Substitute the Dwarf Fountain Grass with a perennial shrub. Fountain grass is an annual plant that will be out of season when they plan to open.
6. All of the existing turf areas need to be top dressed and leveled up to the grade of surrounding concrete areas.
7. The irrigation appears to be in need of major repairs, and some of the proposed landscape areas do not have irrigation at all. Staff recommends the applicant submit a plan that shows existing and new irrigation, which needs to include a plan to connect a freeze and rain sensor to an automatic irrigation controller.

1508-SUP

Case 1508-SUP/Patton's Corner. Requesting approval of a Special Use Permit for a Christmas Tree Lot in an Industrial-1 district, located at 14223 Dallas Parkway, on application from Patton's Corner, represented by Mr. Jeff Patton.



*Addison 50!*

50 YEARS OF FUN!

Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

September 15, 2005

STAFF REPORT

RE: Case 1508-SUP/Patton's Corner

LOCATION: 14223 Dallas Parkway

REQUEST: Requesting approval of a Special Use Permit for a pumpkin lot and a Christmas tree lot

APPLICANT: Mr. Jeff Patton

DISCUSSION:

In Addison all pumpkin lots and Christmas tree lots are required to obtain a Special Use Permit. The applicant seeks to operate a pumpkin lot on the former Ewing Buick site at 14223 Dallas Parkway. After the Fall season, the lot would be converted to a Christmas Tree lot. Mr. Patton had a Christmas tree lot at this location for the past two years. He has done a good job cleaning up the lot after both Holiday seasons.

RECOMMENDATION:

Staff recommends approval of this request subject to no conditions.

Respectfully submitted,

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on September 22, 2005, voted to recommend approval of the above-cited request subject to no conditions.

Voting Aye: Bernstein, Daseke, Jandura, Meier, Wood

Voting Nay: None,

Absent: Chafin, Doepfner

Council Agenda Item: #R7

SUMMARY:

Staff recommends the Council approve a Resolution authorizing the City Manager to enter into an agreement with Sasaki, Inc. for a reimbursement to the Town, in an amount not to exceed \$91,537.00, for modifications made by Dee Brown, Inc., to the interactive fountain basin at Addison Circle Park.

FINANCIAL IMPACT:

Budgeted Amount: not budgeted
Budget Impact: no impact on budget

BACKGROUND:

As discussed in the previous agenda item, Sasaki Inc. will reimburse the Town for the \$91,537.00 to be paid to Dee Brown, Inc. for modifications to the interactive fountain basin at Addison Circle Park.

RECOMMENDATION:

Staff recommends the Council approve a Resolution authorizing the City Manager to enter into an agreement with Sasaki, Inc. for a reimbursement to the Town, in an amount not to exceed \$91,537.00, for modifications made by Dee Brown, Inc., to the interactive fountain basin at Addison Circle Park.

JAMES F. DUFFY

October 4, 2005

HAND DELIVERED

Ms. Carmen Moran
Town of Addison
P.O. Box 9010
Addison, TX 75001

Re: Addison Circle Park
Fountain Modifications

Dear Ms. Moran:

Attached are documents relating to proposed modifications to the interactive fountain at Addison Circle Park. Included are drawings by Sasaki Associates showing the scope of work and a proposal by Dee Brown, Inc. estimating the costs. Also included is a letter from Sasaki accepting responsibility for the costs and agreeing to reimburse the Town on completion of the work and an agreement between the Town and Sasaki related to the modifications, executed by Sasaki.

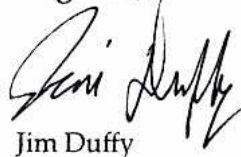
The scope of the modifications involves raising the floor of the pool and modifying the perimeter and interior stone to create a true wading pool environment, making it safer for interactive use by children and adults.

It is proposed the Town contract with Dee Brown, Inc. to accomplish this work because they did the original stonework on the fountain and are most familiar with this portion of the project. Once the final costs are determined, up to the guaranteed maximum cost, the Town will pay Dee Brown, Inc. for the work and be reimbursed by Sasaki.

Sasaki will send their original Project Architect to review the work in progress and approve the installation. In my role as the Town's Construction Manager I too will review the work in progress and audit the cost plus billings to insure proper payment.

Please let me know if you have any questions. Upon approval, the City Manager will execute the appropriate documents and we will release Dee Brown, Inc. to proceed. The work in the field will be done during the fountain's shut down period from November 28, 2005 to February 14, 2006.

Regards,

A handwritten signature in black ink, appearing to read "Jim Duffy", is written over a printed name.

Jim Duffy

September 20, 2005

Carmen Moran
 Director of Development Services
 Town of Addison
 Post Office Box 9010
 5300 Belt Line Road
 Addison, Texas 75001-9010

re: Addison Fountain Modifications

Dear Ms. Moran:

This letter shall confirm our understanding that Sasaki Associates, Inc. (Sasaki) shall reimburse the Town of Addison for construction of modifications to the interactive fountain located at Addison Circle Park in Addison, Texas (the Services), in accordance with plans prepared by Sasaki, dated June 3, 2005.

It is Sasaki's understanding that the work shall a be performed by Dee Brown, Inc., under contract to the Town of Addison, on a time and materials basis with a guaranteed maximum price of Ninety One Thousand Five Hundred Thirty-Seven Dollars (\$91,537.00).

Reimbursement of the Services shall be made to the Town of Addison in one lump sum payment upon satisfactory completion of the work, supported by acceptable documentation from Dee Brown, Inc. and acceptance by the Town of Addison.

Sincerely,



Alan Ward
 Principal

cc: James Sukeforth
 David Clough

Sasaki Associates Inc.
 64 Pleasant Street
 Watertown Massachusetts
 02472 USA
 t 617 926 3300
 f 617 924 2748
 w www.sasaki.com

STATE OF TEXAS §
 § REIMBURSEMENT AGREEMENT
 COUNTY OF DALLAS §

This Reimbursement Agreement ("Agreement") is entered into this ____ day of October, 2005 by and between the Town of Addison, Texas ("City") and Sasaki Associates, Inc. ("Sasaki"), a Massachusetts corporation.

Recitals

1. The City previously retained the services of Sasaki, a professional design firm, to provide landscape architectural and engineering services in connection with the development of the Addison Circle Arts and Events District. Those services included the design of an interactive fountain ("fountain").

2. The fountain has been constructed and modified; however, its appearance and configuration are not satisfactory to either the City or Sasaki, and each has agreed that certain modifications to the fountain are needed.

3. Sasaki has prepared plans and specifications dated June 3, 2005 ("Plans") for the construction of those modifications ("modifications") as set forth in the Plans, and the City intends to retain a contractor to construct the modifications in accordance with the Plans. Sasaki has agreed to pay the City the cost to construct the modifications as set forth herein and in the letter from Sasaki to the City dated September 20, 2005 and attached hereto ("Sasaki letter").

Now, therefore, in consideration of the above and foregoing recitals, the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Town of Addison, Texas and Sasaki Associates, Inc. do contract and agree as follows:

1. In order to perform the modifications to the fountain, the City will retain the services of a contractor to construct the modifications. Such modifications are to be made by the contractor pursuant to the Plans.

2. During the construction of the modifications, Sasaki shall make periodic visits to the site of the construction to inspect and observe the progress and quality of the work, and to determine if the work is being performed and is proceeding in a manner indicating that the work, when completed, will be in accordance with the Plans. Upon the final completion of such work, Sasaki shall certify in writing to the City that, based upon Sasaki's visits to the site and inspections and to the best of Sasaki's knowledge, information and belief, the work has been finally completed and is in accordance with the Plans.

3. Upon completion of the construction of the modifications to the satisfaction of the City and the City's final acceptance of the work performed by the Contractor, the City shall give written notice thereof to Sasaki at the address set forth on the Sasaki letter, which notice shall include the cost of such construction. Within ten (10) days of its receipt of the notice, Sasaki

shall pay to the City the cost of such construction; provided, however, that such payment shall not exceed the sum of Ninety One Thousand Five Hundred Thirty-Seven and No/100 Dollars (\$91,537.00).

4. The Recitals set forth above are true and correct and incorporated into and made a part of this Agreement.

5. This Agreement does not waive, release or alter, and shall not be construed as waiving, releasing or altering, any rights that the City has or may have in connection with the design and construction of the fountain or any other design prepared by or for Sasaki.

6. The laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of the matters set forth herein; and, with respect to any conflict of law provisions, the Parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement. In the event of any action under this Agreement, venue for the same shall be instituted and maintained in Dallas County, Texas.

7. This Agreement shall be effective as of the date first set forth above.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

TOWN OF ADDISON, TEXAS

SASAKI ASSOCIATES, INC.

By: _____
Ron Whitehead, City Manager

Date: _____

ATTEST:

By: _____
City Secretary

By: _____

Printed/Typed Name: JAMES A. SUKEFORTH

Title: CEO

Date: 10/3/2005

Council Agenda Item: #R8**SUMMARY:**

Staff recommends the Council approve a Resolution authorizing the City Manager to enter into an agreement with Dee Brown, Inc., in an amount not to exceed \$91,537.00, for modifications to the interactive fountain basin at Addison Circle Park

FINANCIAL IMPACT:

Budgeted Amount: not budgeted

Budget Impact: no impact on budget

Sasaki, Inc., the architects for the Park, will reimburse the Town for this expense. The agreement covering the reimbursement is also on this agenda.

BACKGROUND:

The staff has had several conversations with Sasaki about the appearance and functionality of the pool at the base of the interactive fountain jets. Sasaki sent a representative of the firm to Taste Addison, and the representative agreed with the Town that the basin should be modified. Sasaki has designed a modification, the plans for which are attached. Sasaki has agreed to pay for this modification; however, the Town's attorneys felt that since the work was being done on City property, the Town should contract for the work and then be reimbursed by Sasaki. The agreement for the reimbursement follows on this agenda.

RECOMMENDATION:

Staff recommends the Council approve a Resolution authorizing the City Manager to enter into an agreement with Dee Brown, Inc., in an amount not to exceed \$91,537.00, for modifications to the interactive fountain basin at Addison Circle Park.

JAMES F. DUFFY

October 4, 2005

HAND DELIVERED

Ms. Carmen Moran
Town of Addison
P.O. Box 9010
Addison, TX 75001

Re: Addison Circle Park
Fountain Modifications

Dear Ms. Moran:

Attached are documents relating to proposed modifications to the interactive fountain at Addison Circle Park. Included are drawings by Sasaki Associates showing the scope of work and a proposal by Dee Brown, Inc. estimating the costs. Also included is a letter from Sasaki accepting responsibility for the costs and agreeing to reimburse the Town on completion of the work and an agreement between the Town and Sasaki related to the modifications, executed by Sasaki.

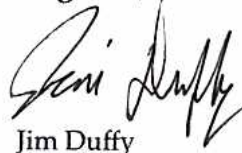
The scope of the modifications involves raising the floor of the pool and modifying the perimeter and interior stone to create a true wading pool environment, making it safer for interactive use by children and adults.

It is proposed the Town contract with Dee Brown, Inc. to accomplish this work because they did the original stonework on the fountain and are most familiar with this portion of the project. Once the final costs are determined, up to the guaranteed maximum cost, the Town will pay Dee Brown, Inc. for the work and be reimbursed by Sasaki.

Sasaki will send their original Project Architect to review the work in progress and approve the installation. In my role as the Town's Construction Manager I too will review the work in progress and audit the cost plus billings to insure proper payment.

Please let me know if you have any questions. Upon approval, the City Manager will execute the appropriate documents and we will release Dee Brown, Inc. to proceed. The work in the field will be done during the fountain's shut down period from November 28, 2005 to February 14, 2006.

Regards,



Jim Duffy

DBI

DEE BROWN, INC.

PROPOSAL FAX

September 20, 2005

Town Of Addison
P.O. Box 9010
Addison, Texas, 75001-9010

ATTN: Mr. Jim Duffy
PROJECT: Addison Circle Park
LOCATION: Plaza Fountain Pool

For The Net Sum Of Time & Material With 18% Overhead and 7.5 % Profit With A GMAX amount of \$91,537.00 (Ninety One Thousand Five Hundred Thirty One Dollars & 00/100)

We propose to furnish the labor, material and equipment to demo the necessary concrete and cubic limestone then add new matching concrete, Chemical Resistant Waterstop and 23 cubic limestone (4 pieces of which are to be taken from the demo area). Per Sasaki drawings SK-69 thru SK-74 dated 06/03/05.

This pricing includes general liability, auto and worker compensation insurance.

THIS BID DOES NOT INCLUDE:

- 1 Repair Or Remodel Tax
- 2 Bond Premium
- 3 City Permits
- 4 Plumbing/Electrical Work
- 5 Landscaping

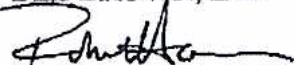
NOTE: IF THIS PROJECT IS TAX EXEMPT THEN PLEASE SEND A SALES TAX EXEMPTION FORM ALONG WITH THIS SIGNED PROPOSAL.

Terms and Conditions: The terms and conditions set forth on the reverse side are a part of this proposal.

ACCEPTED: _____

Sincerely,

DEE BROWN, INC.



Robert Harris
Project Manager

DATE: _____

(214) 321-6443
Fax (214) 328-1039/(214) 320-2399
Website: <http://www.deebrown.com>
AZ CONTRACTOR LICENSE: ROC128467
FL CONTRACTOR LICENSE: CBC057732

MAILING ADDRESS:
P.O. BOX 570335
DALLAS, TEXAS 75357-0335

STREET ADDRESS:
4101 SOUTH SHILOH ROAD
GARLAND, TEXAS 75041

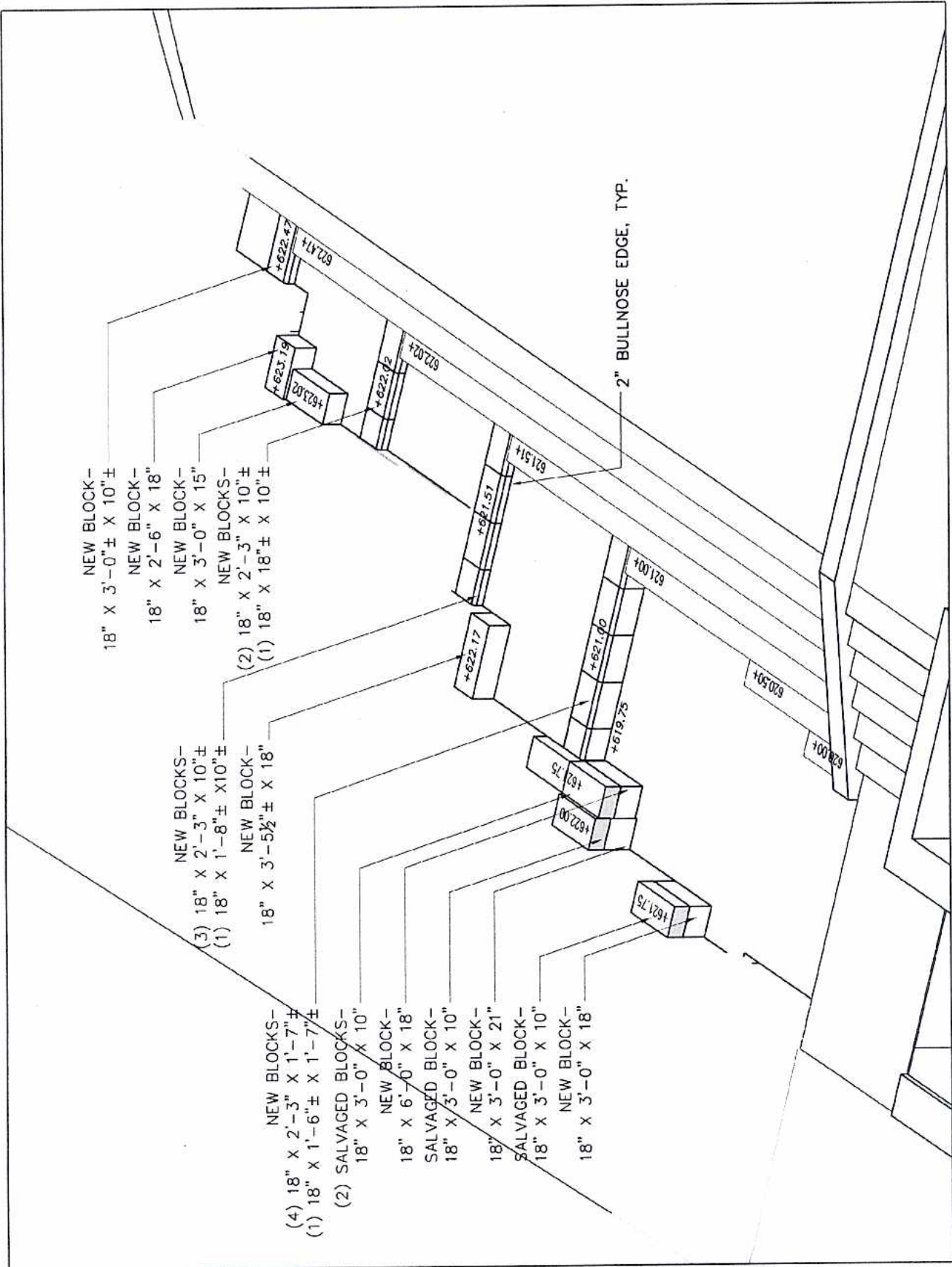


MEMBER MASON CONTRACTORS
ASSOCIATION OF AMERICA

DEE BROWN, INC.
 Dallas, Texas

TERMS & CONDITIONS:

- (1) DBI will take no field measurements. Fabrication will be based on approved shop drawings.
- (2) It will be the responsibility of the General Contractor/Construction Manager to see that all their respective Subcontractors furnish proper dimensions and location/placement of penetrations in facing material in a timely manner so as not to hold up approval of DBI shop drawings.
- (3) DBI "Released for fabrication" shop drawings will be the final governing document for the scope of work to be done by DBI where granite, stone, architectural precast concrete panels, etc. are involved.
- (4) The delivery and work schedule will be as mutually agreed upon between the General Contractor/Construction Manager and DBI.
- (5) Once materials arrive at jobsite and are assigned specific storage areas, if any materials have to be relocated or stored at other than the agreed upon storage space (through no fault of DBI), DBI will be granted an extra to contract amount for time, expenses and other cost involved.
- (6) DBI shall not be responsible for cleaning or protection of materials, nor for replacement of breakage or damage unless such breakage or damage is caused directly by DBI or its employees.
- (7) Granite/natural stone samples that are submitted are range samples only showing generally the color range expected by the quarry. Granite/natural stone is a natural material and variations from this color range can be expected.
- (8) DBI does not include any jobsite sizing, cutting, finishing, polishing of natural materials which are furnished through fabrication of approved shop drawings.
- (9) When General Contractor furnished material is used DBI and General Contractor shall inspect all precast concrete panels/other material aboard truck prior to unloading for obvious visual defects. Subcontractor will be required to repair only that damage caused by Subcontractor.
- (10) When General Contractor furnished material is used General Contractor will furnish concrete panels to DBI in a proper, mutually agreed to sequence, and in a timely manner and sufficient quantity for DBI to sustain a continuous operation. If Contractor's material manufacturer fails to meet these conditions due to no fault of Subcontractor, Contractor will reimburse Subcontractor for reasonable down time losses.
- (11) General contractor shall furnish all engineering layout by the establishment of principle axis lines and levels as well as by establishing correct, continuous, and easily identifiable center lines, exterior wall offset lines, and bench marks as required on each floor level for Subcontractor's use. Subcontractor will establish his own layout from these references and be responsible for the layout of his own work from that point on. Subcontractor will exercise prudence so that actual final conditions and details shall result in as near perfect alignment of finished surfaces as possible.
- (12) When General Contractor furnishes hoisting (both material and personnel) to DBI, General Contractor shall furnish all operators and flag or signal personnel in a timely manner and sufficient time span to enable DBI to sustain a continuous operation. If the General Contractor fails to meet these conditions due to no fault of the Subcontractor, General Contractor will reimburse DBI for reasonable down time losses.
- (13) Parking Garage structures will have all ramps from ground floor to roof usable before masonry is started.
- (14) Unless otherwise noted to the contrary, this proposal includes furnishing hoist, equipment, cleaning up our rubbish, scaffolding, taxes and insurance to comply with Federal and State laws.
- (15) This proposal includes no allowances for performance bond, electric power, watchman or other job pro-rata expenses. The ground levels around the buildings are to be brought up to rough finished grade levels before we start our work, to permit delivery of materials and erection of scaffolding on level ground.
- (16) Minimum terms of payment: 90% of the value of the materials erected and materials delivered at the site to be paid on the 10th of the month following. Balance of contract price to be paid within 30 days after our crew completes job.
- (17) This proposal is entirely withdrawn after twenty days unless we agree to an extension in writing.



Project Title

Addison Arts and Events District

Drawing Title

PLAZA FOUNTAIN POOL EDGE AXONOMETRIC

Project Number

14516.05

Ref. Dwg No.

Drawn By

CBE

Scale

NONE

Date

06-03-05

Drawing Number

SK-69**S A S A K I**

CONCRETE FILL WITH EXPOSED AGGREGATE
FINISH TO MATCH SIDEWALK. PREPARE
EXISTING POOL BOTTOM BY BUSHHAMMERING
CONCRETE.

DRILL $\frac{1}{2}$ " ϕ WEEP HOLE THROUGH EXISTING
LIMESTONE BLOCK TO PROVIDE FOR
DRAINAGE FROM SIDEWALK. BOTTOM OF
HOLE TO MEET FLUSH WITH FINISH GRADE
ON NORTH SIDE OF BLOCK.

NEW LIMESTONE BLOCKS TO BE SET IN NEW
CONCRETE FILL

NEW LIMESTONE STEP TREADS TO MATCH
EXISTING STEPS (COLOR AND FINISH).
REMOVE EXISTING CONCRETE AS REQUIRED TO
SET BOTTOM OF STEP LEVEL.

SK-73 PLAZA FOUNTAIN
STEPS SECTION 3

CONCRETE FILL WITH EXPOSED AGGREGATE
FINISH TO MATCH SIDEWALK. PREPARE
EXISTING POOL BOTTOM BY ROUGHENING
CONCRETE.

NEW LIMESTONE STEP TREAD TO MATCH
EXISTING STEPS (COLOR AND FINISH)
(TYPICAL FOR 4)

$\frac{3}{8}$ " CAULKED JOINTS TYP.
AROUND STEP TREADS AND
PERIMETER OF SLOPED EXPOSED
AGGREGATE CONCRETE POURS.

WATERSTOP JOINT AROUND ALL
CONCRETE JOINTS IN WADING
POOL

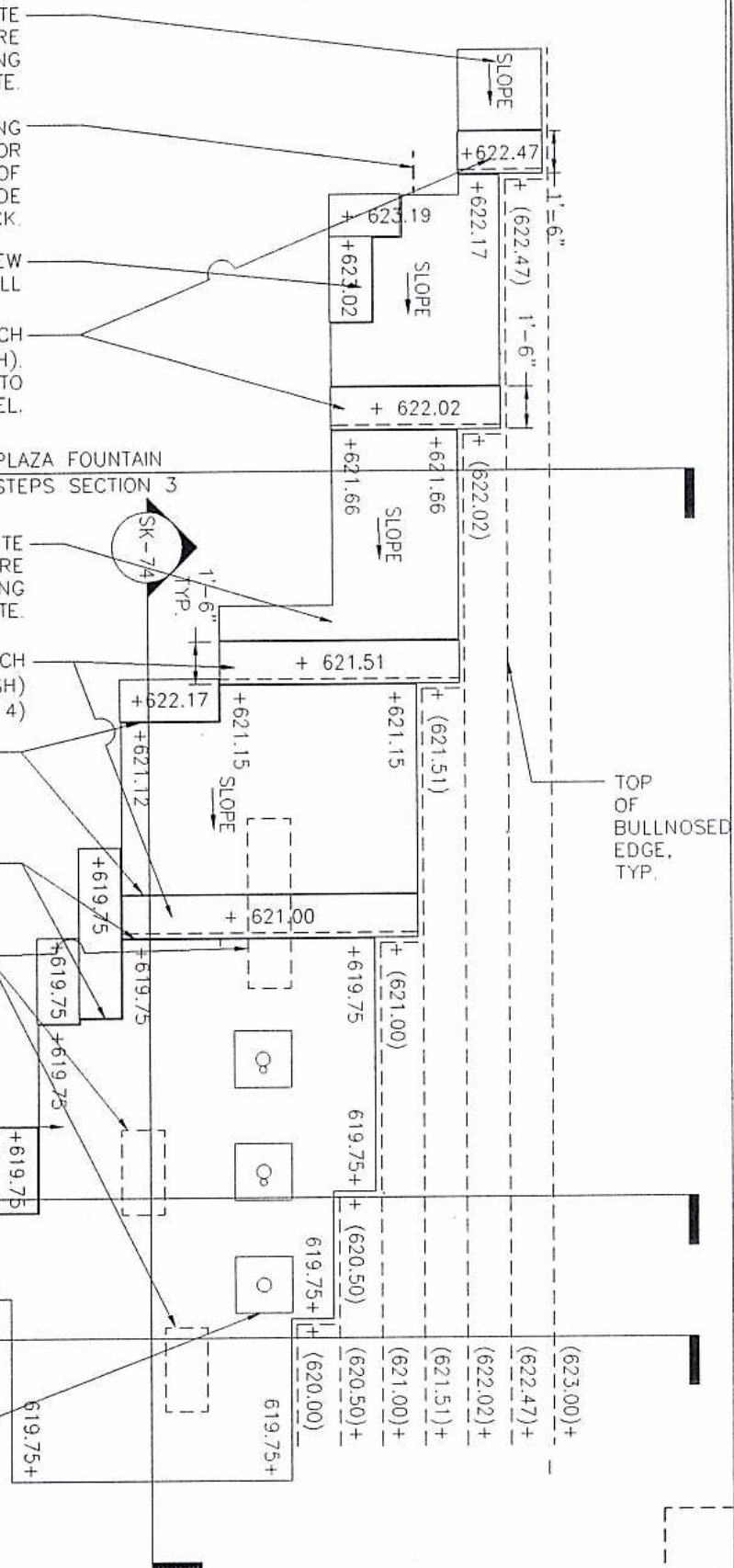
REMOVE AND SALVAGE EXISTING
TOP LIMESTONE BLOCKS. REMOVE
ALL MORTAR FROM BOTTOM FACE OF
BLOCK. REMOVE LOWER BLOCKS TO
4" BELOW NEW FINISHED GRADE OF
CONCRETE POOL BOTTOM, INCLUDING
DOWELS.

OPERATING WATER LEVEL ELEVATION
620.08

SK-72 PLAZA FOUNTAIN
STEPS SECTION 2

SK-71 PLAZA FOUNTAIN
STEPS SECTION 1

RESET SUMP GRATING TO MATCH
NEW BOTTOM OF POOL ELEVATION
(TYPICAL FOR 3)



Project Title

Addison Circle park

Drawing Title

PLAZA FOUNTAIN POOL REVISIONS PLAN

Project Number

14516.05

Ref. Dwg No.

Drawn By

CBE

Scale

1/4"=1'-0"

Date

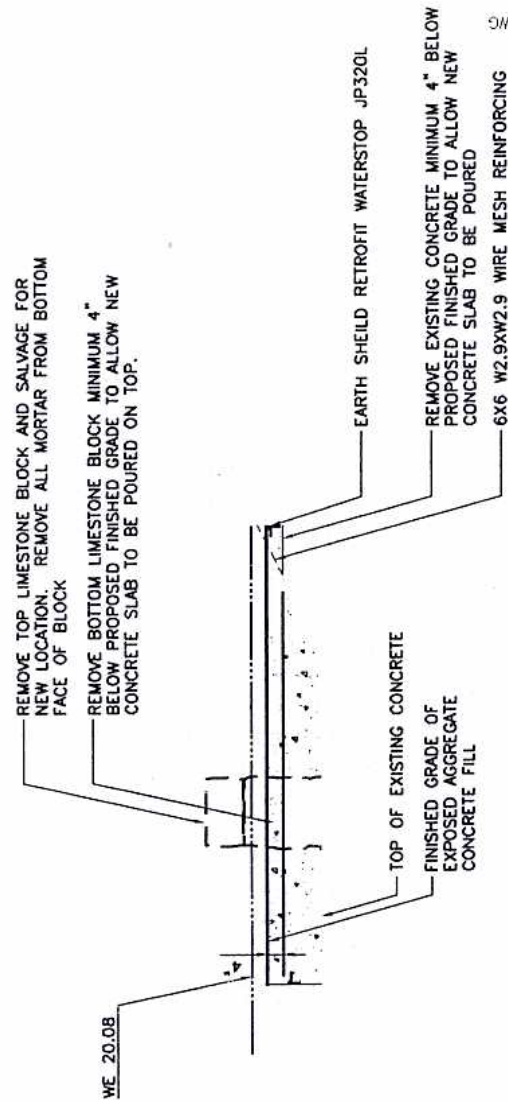
05/12/05

Drawing Number

SK-70

SASAKI

64 Pleasant St. Watertown, MA 02472 617 926 3300



S-FNTN-STEPS1.DWG

PLAZA FOUNTAIN STEPS SECTION 1

SCALE: 3/8"=1' - 0"

Project Title

Addison Arts and Events District

Drawing Title

PLAZA FOUNTAIN STEPS SECTION 1

Project Number

14516.05

Ref. Dwg No.

Drawn By

CBE

Scale

3/8" = 1'-0"

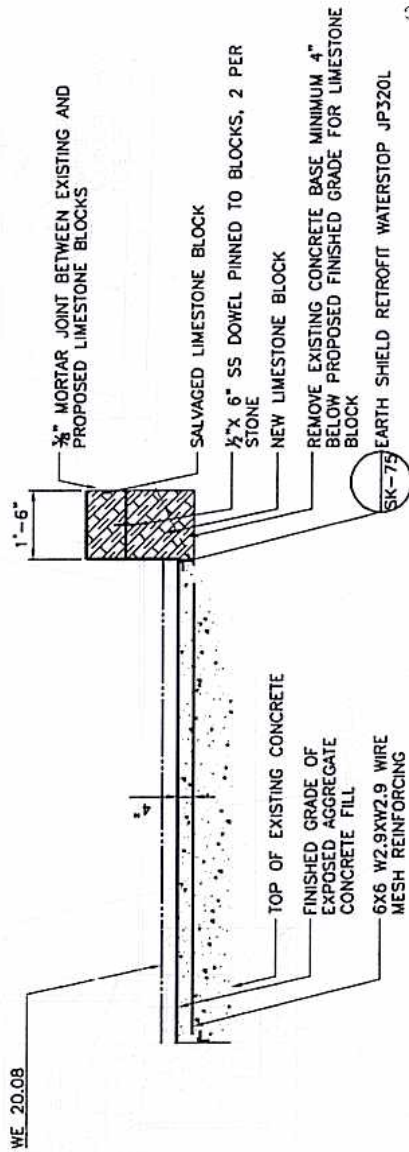
Date

06/03/05

Drawing Number

SK-71

SASAKI



S-FNTH-STEP2.DWG

PLAZA FOUNTAIN STEPS SECTION 2
SCALE: 3/8" = 1' - 0"

Project Title
Addison Arts and Events District

Project Number
14516.05

Drawn By
CBE

Drawing Title
PLAZA FOUNTAIN STEPS SECTION 2

Ref. Dwg No.

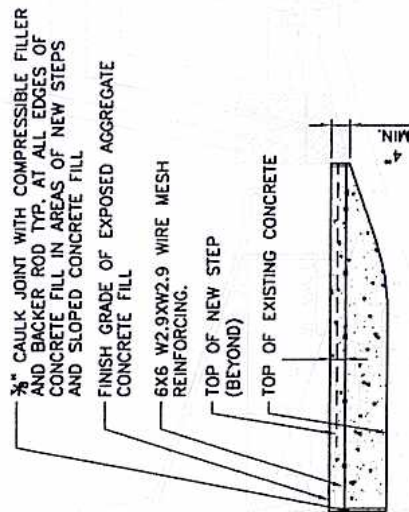
Scale
3/8" = 1'-0"

Date
06/03/05

Drawing Number

S A S A K I

SK-72



PLAZA FOUNTAIN STEPS SECTION 3

SCALE: 3/8"=1' - 0"

Project Title

Addison Circle Park

Drawing Title

PLAZA FOUNTAIN POOL REVISIONS - SECTION 1

Project Number

14516.05

Ref. Dwg No.

SK-61

Drawn By

CBE

Scale

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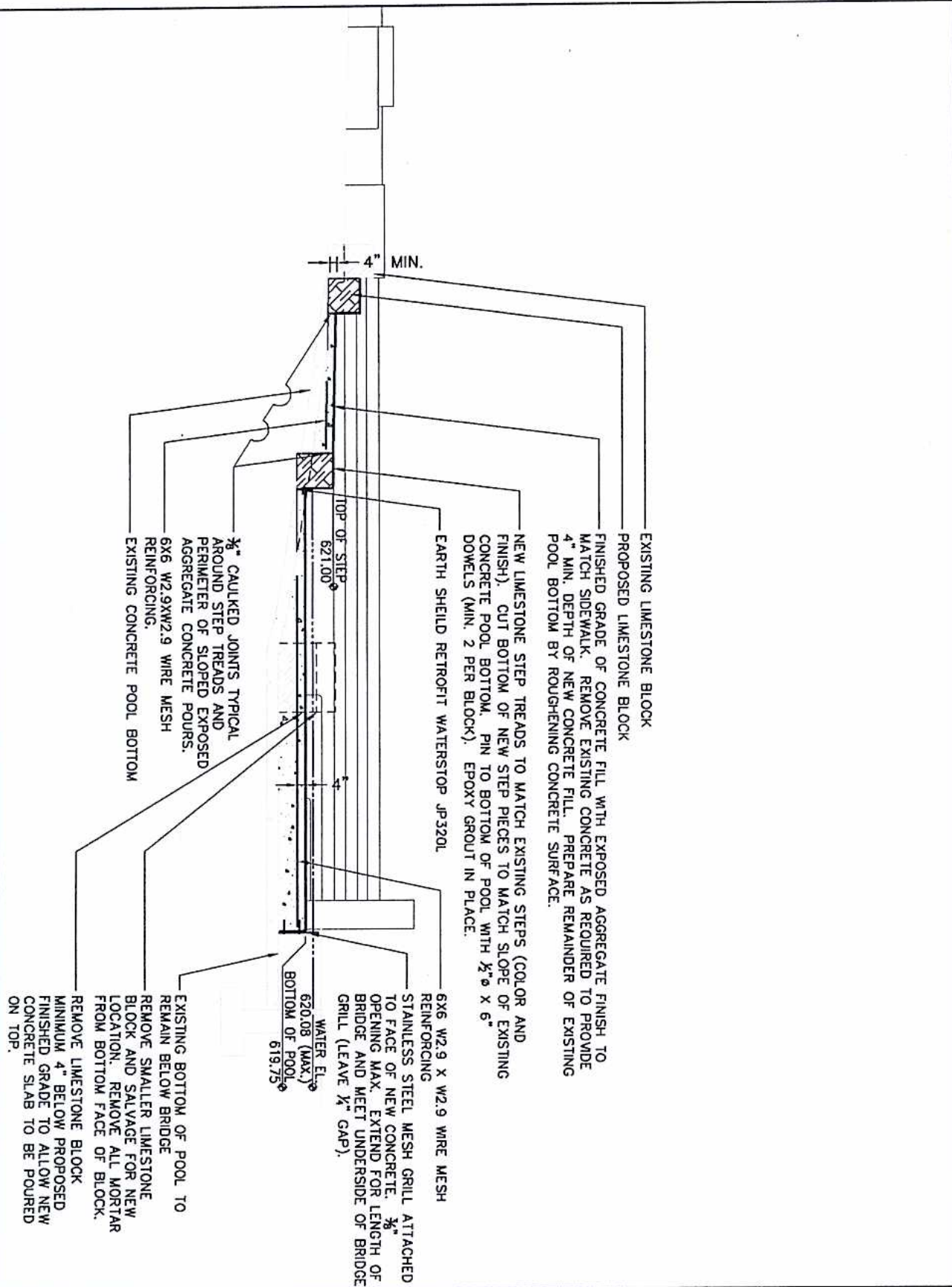
Date

06/03/05

Drawing Number

SK-73

S A S A K I



Project Title

Addison Circle park

Drawing Title

PLAZA FOUNTAIN SECTION

SASAKI

Project Number

14516.05

Ref. Dwg No.

Drawn By

CBE

Scale

1/4"=1'=0"

Date

06/03/05

Drawing Number

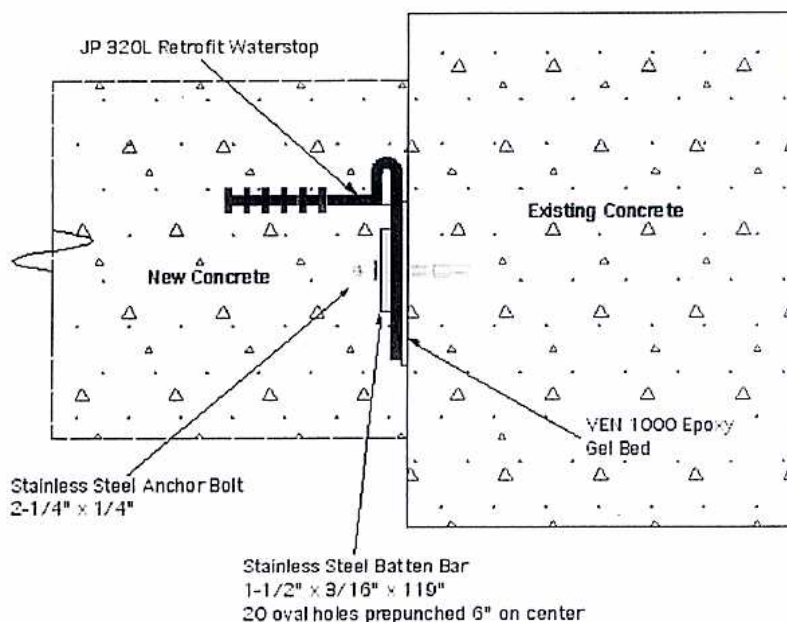
SK-74

Earth Shield® Chemical Resistant Waterstop Retrofit (JP 320L, JP 336L) Jobsite Installation Guide

1. Prepare existing concrete by grinding away any irregularities.
2. Thoroughly clean existing concrete using:
 - A. Wire brush or needle gun
 - B. High pressure water blast
 - C. Sand blast*Remove all dust, grease and laitance.*
3. Heat weld JP 320L or JP 336L shape to appropriate length and directional changes, to fit surface. See *Waterstop Job Site Installation Guide* for recommended heat welding procedure.
4. Check heat welded waterstop for proper location, orientation, and fit.
5. Using the stainless steel batten bar as a template, drill 1/4" holes 2-3/4" deep through waterstop and concrete using a percussion or rotary hammer drill. The holes should be drilled at approximately 6" on center (20 holes per 10 lineal foot length of waterstop).
6. Clean fastener holes and surface from concrete dust.
7. Mix appropriate amount of epoxy per mixing instructions. **Ensure amount is not more than can be installed within epoxy's pot life.**
8. Place epoxy strip 1/8" thick by 3" wide on concrete surface.
9. Embed retrofit shape into strip of uncured epoxy.
10. Place stainless steel batten bar against flat leg of waterstop.
11. Hammer stainless steel wedge anchors into drilled holes, passing anchor through stainless steel batten bar, waterstop and epoxy bed. Repeat for all holes. Tighten bolts on wedge anchors to ensure tight mechanical bond between the stainless steel batten bar, waterstop, epoxy and concrete.
12. Use expansion joint filler to minimize shear stress on waterstop where large differential movement is anticipated.
13. Allow installed retrofit waterstop to cure for 24 hours before placing new concrete.

For welding, fabrication, placement, execution, and quality assurance please follow all procedures stated in Earth Shield Master Specification Section 03250.

Additional information is available on VEN 1000 Chemical Resistant Novolac Epoxy. Request a product literature sheet.



Earth Shield® Chemical Resistant Waterstop

551 Birch Street, Lake Elsinore, CA 92530

888-836-5778 • FAX 951-674-1315 • www.earthshield.com • davidp@earthshield.com

Council Agenda Item: #R9

SUMMARY:

Council adoption of an ordinance creating new water and wastewater (sewer) rates is requested.

FINANCIAL IMPACT:

The new rates are expected to increase operating revenues in the Utility fund by approximately \$1.9 million, or 27%.

BACKGROUND:

The Town's water and sewer rates need to be raised in order to support increased operating expenses, debt service associated with capital projects of previous years, and future capital projects needed to maintain the Town's water and sewer systems. The increased rates also need to recognize the fact that Addison consumers have been consuming less water, thereby reducing the amount of water and sewer revenue that had been projected when rates were last increased in September 2003.

During the process of evaluating the data required to determine the appropriate rates, staff became concerned that the volume of unaccounted water loss (the volume of water purchased from Dallas Water Utilities, less the water sold to Addison customers) may have increased over the past year. A task force comprised of members of the Finance and Public Works departments conducted a thorough review of the process for calculating unaccounted water loss, as well as the process of obtaining meter readings for the accurate production of utility bills to our customers. A presentation of the task force's findings will be given to council at the October 11 meeting. However, in summary, the task force discovered that our data is sound and the utility billings have been accurate. None of the findings call into question the data used to develop the rates recommended to Council at the September 13th meeting.

RECOMMENDATION:

The City Council was presented with two options for increasing the rates. The first option maintained a water rate configuration where the conservation rate was double the base water rate. In an attempt to recover more of the Town's fixed costs with lower water consumption patterns, a second option was presented that would establish a difference of only 50% between the base and conservation rates. The sewer rates were the same in both options. Attached are two ordinances. It is recommended Council adopt either set of rates that will be in affect for December's billing.

OPTION 1**TOWN OF ADDISON, TEXAS**

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 82 OF THE CODE OF ORDINANCES OF THE TOWN BY AMENDING SEWAGE RATES AND WATER RATES FOR ALL CUSTOMER CLASSIFICATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas water and sewer utility rates have not been adjusted in approximately the last ten years.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, THAT:

Section 1. The Code of Ordinances (the "Code") of the Town of Addison, Texas (the "City") is hereby amended as follows:

A. Chapter 82 (Utilities), Article I (In General), Division 5 (Rates and Charges) of the Code is hereby amended in part as follows:

1. Section 82-76 (Sewage rates) is amended by amending subsections (1) (Sewer minimum bills) and (2) (Sewer volume rate) to hereafter read as follows:

(1) *Sewer minimum bills*. Minimum monthly bill shall be applied to all customers based upon customer classification and shall include an allowance for volume based upon water consumed as follows:

Customer Classification	Minimum Monthly Bill	Volume Included (Gallons)
Single-Family Residential	\$ 12.26	2,000
Multi-Family Residential	\$ 63.35	15,000
Municipal/Schools	\$ 83.00	20,000
Commercial Large (meter size greater than or equal to 2 inches)	\$ 149.81	37,000
Commercial Small (meter size less than 2 inches)	\$ 16.19	3,000
Industrial Large (meter size greater than or equal to 2 inches)	\$ 318.80	80,000
Industrial Small (meter size less than 2 inches)	\$ 16.19	3,000
Hotel/Motel	\$ 318.80	80,000

OPTION 1

- (2) *Sewer volume rate.* All volume, which exceeds the amount allowed in the minimum bill, shall be charged at a rate of \$3.93 per 1,000 gallons of water consumed for all customer classifications.

2. Section 82-77 (Water rates) is amended by amending subsections (1) (Water minimum bills), (2) (Water volume rate), and (3) (Water conservation volume rate) to hereafter read as follows:

- (1) *Water minimum bills.* Minimum monthly bill shall be applied to all customers based upon customer classification and shall include an allowance for volume based upon water consumed as follows:

Customer Classification	Minimum Monthly Bill	Volume Included (Gallons)
Single-Family Residential	\$ 7.28	2,000
Multi-Family Residential	\$ 31.20	15,000
Municipal/Schools	\$ 40.40	20,000
Commercial Large (meter size greater than or equal to 2 inches)	\$ 71.68	37,000
Commercial Small (meter size less than 2 inches)	\$ 9.12	3,000
Industrial Large (meter size greater than or equal to 2 inches)	\$ 150.80	80,000
Industrial Small (meter size less than 2 inches)	\$ 9.12	3,000
Hotel/Motel	\$ 150.80	80,000
Sprinkler Large (meter size greater than or equal to 2 inches)	\$ 102.96	27,000
Sprinkler Small (meter size less than 2 inches)	\$ 22.00	5,000
Fire Meters	\$ 18.32	8,000

- (2) *Water volume rate.* All volume, which exceeds the amount allowed in the minimum bill, shall be charged at a rate of \$1.84 per 1,000 gallons of water consumed for all customer classifications, with the exceptions as noted in subsection (3) below.

- (3) *Water conservation volume rate.* Single-family residential customers shall be charged a rate of \$3.68 per 1,000 gallons of water for all water consumed in excess of 15,000 gallons. Irrigation (Large and Small) customers shall be charged for all volume, which exceeds the amount allowed in the minimum bill, at a rate of \$3.68 per 1,000 gallons of water consumed.

OPTION 1

Section 2. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 3. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall become effective from and after its date of passage as provided by law and be applied to monthly customer bills beginning with the December 2005 billing cycle.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS on this the 11th day of October 2005.

Mayor Joe Chow

ATTEST:

By: _____
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By: _____
Ken Dippel, City Attorney

OPTION 2

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 82 OF THE CODE OF ORDINANCES OF THE TOWN BY AMENDING SEWAGE RATES AND WATER RATES FOR ALL CUSTOMER CLASSIFICATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas water and sewer utility rates have not been adjusted in approximately the last ten years.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, THAT:

Section 1. The Code of Ordinances (the "Code") of the Town of Addison, Texas (the "City") is hereby amended as follows:

A. Chapter 82 (Utilities), Article I (In General), Division 5 (Rates and Charges) of the Code is hereby amended in part as follows:

1. Section 82-76 (Sewage rates) is amended by amending subsections (1) (Sewer minimum bills) and (2) (Sewer volume rate) to hereafter read as follows:

(1) *Sewer minimum bills*. Minimum monthly bill shall be applied to all customers based upon customer classification and shall include an allowance for volume based upon water consumed as follows:

Customer Classification	Minimum Monthly Bill	Volume Included (Gallons)
Single-Family Residential	\$ 12.26	2,000
Multi-Family Residential	\$ 63.35	15,000
Municipal/Schools	\$ 83.00	20,000
Commercial Large (meter size greater than or equal to 2 inches)	\$ 149.81	37,000
Commercial Small (meter size less than 2 inches)	\$ 16.19	3,000
Industrial Large (meter size greater than or equal to 2 inches)	\$ 318.80	80,000
Industrial Small (meter size less than 2 inches)	\$ 16.19	3,000
Hotel/Motel	\$ 318.80	80,000

OPTION 2

(2) *Sewer volume rate.* All volume, which exceeds the amount allowed in the minimum bill, shall be charged at a rate of \$3.93 per 1,000 gallons of water consumed for all customer classifications.

2. Section 82-77 (Water rates) is amended by amending subsections (1) (Water minimum bills), (2) (Water volume rate), and (3) (Water conservation volume rate) to hereafter read as follows:

(1) *Water minimum bills.* Minimum monthly bill shall be applied to all customers based upon customer classification and shall include an allowance for volume based upon water consumed as follows:

Customer Classification	Minimum Monthly Bill	Volume Included (Gallons)
Single-Family Residential	\$ 7.84	2,000
Multi-Family Residential	\$ 35.40	15,000
Municipal/Schools	\$ 46.00	20,000
Commercial Large (meter size greater than or equal to 2 inches)	\$ 82.04	37,000
Commercial Small (meter size less than 2 inches)	\$ 9.96	3,000
Industrial Large (meter size greater than or equal to 2 inches)	\$ 173.20	80,000
Industrial Small (meter size less than 2 inches)	\$ 9.96	3,000
Hotel/Motel	\$ 173.20	80,000
Sprinkler Large (meter size greater than or equal to 2 inches)	\$ 89.46	27,000
Sprinkler Small (meter size less than 2 inches)	\$ 19.50	5,000
Fire Meters	\$ 20.56	8,000

(2) *Water volume rate.* All volume, which exceeds the amount allowed in the minimum bill, shall be charged at a rate of \$2.12 per 1,000 gallons of water consumed for all customer classifications, with the exceptions as noted in subsection (3) below.

(3) *Water conservation volume rate.* Single-family residential customers shall be charged a rate of \$3.18 per 1,000 gallons of water for all water consumed in excess of 15,000 gallons. Irrigation (Large and Small) customers shall be charged for all volume, which exceeds the amount allowed in the minimum bill, at a rate of \$3.18 per 1,000 gallons of water consumed.

OPTION 2

Section 2. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 3. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall become effective from and after its date of passage as provided by law and be applied to monthly customer bills beginning with the December 2005 billing cycle.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS on this the 11th day of October 2005.

Mayor Joe Chow

ATTEST:

By: _____
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By: _____
Ken Dippel, City Attorney

Council Agenda Item: #R10**SUMMARY:**

Staff requests approval of an ordinance amending Solid Waste, Chapter 66, Ordinance II, Section 53 of the Code of Ordinances regarding the requirement for a solid waste collection permit.

FINANCIAL IMPACT:

Staff anticipates the financial impact of the adoption of this ordinance to produce revenues of \$80,000 for the 2005-2006 fiscal year. Commercial haulers will likely pass this fee directly on to their customers.

BACKGROUND:

This ordinance was modeled after the City of Farmers Branch's solid waste collection permit ordinance. In FY 2004, Farmers Branch received \$140,719 in revenue from the solid waste collection fee. Other area cities currently utilizing a solid waste collection fee include Carrollton, Irving, Plano, and Allen. Attached is a survey of how various cities throughout the state accommodate commercial sanitation collection activities.

The fee has been considered in the development of FY 2005-06 Budget and anticipated revenue from the fee of \$80,000 has been included in the City Manager's recommended budget. The Town's Finance department will administer the fee. Solid waste collection providers utilizing public streets and thoroughfares within the Town will be required to obtain an annual permit, with a fee of \$50.00. In addition, collection providers will be required to submit a quarterly report and a quarterly fee equal to 5% of gross receipts on all revenues and income derived from collection activity within the Town limits.

The Finance department will review each permit holder's quarterly report to ensure the fee submitted is correct. The ordinance will allow the department to inspect the books and records of the permit holder for accordance with the ordinance. Collection providers will be notified by letter of the new solid waste collection permit and fee requirements.

RECOMMENDATION:

Staff recommends approval of the attached ordinance.

Solid Waste Collection Permit Research:

City	Commercial Waste Picked Up By...?	Does city charge a permit fee for commercial solid waste providers?
Austin	Multiple companies.	Container/Roll Off Fee- all commercial collection vehicles operating within the city limits must obtain an annual license.
Bryan	In-house by the city.	NA, done in-house.
College Station	In-house by the city.	NA, done in-house.
Corpus Christi	Multiple companies including city.	Hauler Permit and Street Use Fee- all commercial collection vehicles operating within the city limits must obtain an annual hauler permit for \$100 plus \$1 for each vehicle and a street use fee is charged to all haulers using the city landfill.
Denton	In-house by the city.	NA, done in-house.
Fort Worth	Multiple companies.	Grants of Privilege Fee- all commercial collection vehicles operating within the city limits must obtain a grants of privilege and pay 5% on gross receipts.
Grand Prairie	Sole franchise.	Franchise Fee- sole franchise pays a fee of 4% on all monthly gross receipts.
Longview	Multiple companies including city.	Hauler Permit and Street Use Fee- all commercial collection vehicles operating within the city limits must obtain an annual hauler permit for \$50 and a street use fee of 10% of gross receipts is charged.
Lubbock	Multiple companies including city.	No fee.
Mesquite	Sole franchise.	Franchise Fee, Roll Off Fee, and Flat Rate Fee- sole franchise pays three items every month including a fee of 4% on total monthly revenue, a fee of 4% on all roll off monthly revenue, and a flat rate of \$41,667. It comes out to about \$60,000 per month in revenue for the city.
North Richland Hills	Sole franchise.	Franchise fee.
San Angelo	Sole franchise.	Franchise fee.
San Marcos	Multiple companies.	Street Use Permit/Fee- all commercial collection vehicles operating within the city limits must obtain an annual permit and pay a fee of 5% of gross receipts quarterly.
Southlake	Sole franchise.	Franchise fee.
Temple	In-house by the city.	NA, done in-house.
Tyler	Multiple companies including city.	Street Use Permit/Fee- all commercial collection vehicles operating within the city limits must pay a fee of 4% of gross receipts quarterly. The city also charges itself in the spirit of open competition. The general fund charges the solid waste fund for the fee.
Wichita Falls	In-house by the city.	NA, done in-house.

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 66 (SOLID WASTE) OF THE CODE OF ORDINANCES OF THE CITY BY ADDING A NEW DIVISION 3 TO ARTICLE II. THEREOF AND REQUIRING A PERMIT TO USE THE PUBLIC STREETS, HIGHWAYS, OR THOROUGHFARES OF THE CITY FOR THE PURPOSES OF ENGAGING IN THE BUSINESS OF COLLECTING GARBAGE, SOLID WASTE, TRASH, AND RECYCLABLE MATERIALS FROM COMMERCIAL AND INDUSTRIAL PREMISES WITHIN THE CITY; PROVIDING FOR A PERMIT FEE AND PROVISIONS REGARDING THE LATE PAYMENT THEREOF; PROVIDING FOR THE REVOCATION OF A PERMIT; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED \$500.00; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas ("City") is a home rule municipality pursuant to Article 11, Section 5 of the Texas Constitution, State law, and its Home Rule Charter; and

WHEREAS, the City has exclusive control over and under the highways, streets, and alleys of the City, as set forth in Section 311.001, Tex. Transp. Code and in Section 2.08.s. of the City Charter, and is authorized and empowered to regulate the streets, alleys and public places of the City pursuant to Section 1.05 of the City Charter; and

WHEREAS, the City is authorized and empowered to license, fix the charges or fares made by, or otherwise regulate any person who owns, operates, or controls any type of vehicle used on the public streets or alleys of the City for carrying or transporting freight for compensation, as set forth in Section 215.073, Tex. Loc. Gov. Code and in Section 2.08.m. of the City Charter; and

WHEREAS, the City is authorized to adopt rules to protect the health of persons in the City pursuant to Section 122.006, Tex. Loc. Gov. Code and to enforce ordinances necessary to protect health of the inhabitants of the City pursuant to Section 54.004 of the Local Government Code; and

WHEREAS, the City is authorized by Section 215.075, Tex. Loc. Gov. Code to license any lawful business ~~or occupation~~ that is subject to the police power of the City; and

WHEREAS, the City is authorized pursuant to Sections 362.014, 363.003(12), 363.116 and 364.031, Tex. Health & Safety Code, to contract with any person for the collection or transportation of solid waste; and

WHEREAS, the City is authorized to require a permit for the use of public streets, highways, and thoroughfares in the City for the purpose of engaging in the business of collecting garbage, solid waste, trash, and recyclable materials from commercial and industrial premises within the City, and

WHEREAS, as environmental concerns increase, the City desires to monitor and regulate businesses engaged in the collection and transportation of garbage, solid waste, trash, and recyclable materials as set forth herein~~the City has determined that haulers of garbage, solid waste, trash, and recyclable materials cause an increase in damage to public streets, highways, and thoroughfares in the Town; and~~

WHEREAS, the City Council desires to institute a permit requirement for the use of public streets, highways, and thoroughfares in the City for the purpose of engaging in the business of collecting garbage, solid waste, trash, and recyclable materials from commercial and industrial premises within the City; and

WHEREAS, the adoption of this Ordinance is in the best interests of the citizens of the City and serves to protect the health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendment. Chapter 66 (Solid Waste) of the Code of Ordinances of the Town of Addison, Texas is hereby amended in the following particulars, and all other chapters, articles, section, subsections, paragraphs and words are not amended but are ratified and confirmed.

A. A new Division 3 shall be and is hereby added to Article II. of the said Chapter 66 to read as follows:

DIVISION 3. COMMERCIAL SOLID WASTE COLLECTION

Section 66-61. Permit for Commercial Collection Required.

No person, firm, corporation, or other entity, excluding the Town, may use the public streets, alleys, or thoroughfares within the corporate limits of the Town for the purpose of engaging in the business of collecting or transporting garbage, solid waste, trash, or recyclable materials from commercial and industrial premises within the Town without first having obtained a solid waste collection permit from the Town.

Section 66-62. Application for Permit; Expiration.

(1) To obtain a solid waste collection permit, a person must submit an application on a form provided by the Director of Finance or the Director's designee. The applicant must be the person who will own, control, or operate the proposed collection or transportation service.

(2) The permit application shall include the following information:

- a. Applicant's name, address, and verified signature; and
- b. The form of business of the applicant, and, if the business is a corporation or association or other form of business entity, evidence of the authority of the person signing the application to represent the business.
- c. A certificate of insurance showing current commercial general liability and motor vehicle liability insurance coverage for the applicant.

(3) Application for the permit shall be accompanied by a \$50.00 non-refundable processing fee.

(4) The collection permit expires October 1 of each year, and may be renewed by making application as provided in this section.

Section 66-63. Fees.

(1) The annual fee for the solid waste collection permit is an amount equal to five percent (5%) of the gross receipts on all revenues and income collected by or for the permit holder from any source derived from the operation of the collection of garbage, solid waste, trash, or recyclable materials from commercial or industrial premises within the corporate limits of the Town.

(2) The permit holder shall remit the annual fee on a quarterly calendar basis to the Town's Finance Department, on or before the 30th day of January, April, July, and October, based upon the revenues collected during the immediately previous calendar quarter.

(3) The quarterly payment shall be accompanied by an income statement certified by the permit holder acknowledging compliance with this section.

(4) Fee payments received after the due date shall be subject to interest at the rate of ten percent (10%) per annum until the fees are paid in full. In addition, delinquent fees shall be subject to a late payment penalty of five percent (5%) for each month or portion thereof that the fees are outstanding. In no event, however, shall the penalties exceed twenty-five percent (25%) of the total delinquent fees nor shall interest charged or penalty assessed exceed the maximum rate allowed by law.

Section 66-64. Requirement to Furnish Information.

The books and records of the permit holder shall be open at reasonable times for inspection by the Director of Finance or the Director's designee in accordance with the terms of this Division.

Section 66-65. Revocation of Permit.

The Director of Finance or the Director's designee may revoke a collection permit for the failure of the holder to provide required information, failure to pay fees, ~~or~~ for making false statements on the permit application or any quarterly report, for the violation of any provision of this Division, or if it has been determined by an authorized governmental entity or agency or representative thereof that the permit holder has violated a governmental law, rule, or regulation regarding the collection, transportation, handling, or disposal of solid waste, garbage, trash, or recyclable materials, including, without limitation, any law, rule, or regulation regarding the location where the same may be deposited.

Section 3. Penalty. That a violation of any provision of this Ordinance shall be a misdemeanor, and upon conviction in Municipal Court shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) for each offense.

Section 4. Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 4. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed such remaining portion of this Ordinance despite such invalidity, which remaining portion shall remain in full force and effect.

Section 5. Effective Date. This Ordinance shall become effective from and after its date of passage and publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this ____ day of _____, 2005.

Joe Chow, Mayor

ATTEST:

By: _____
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By: _____
Ken Dippel, City Attorney